



# Value Added Tax Act 1994

## 1994 CHAPTER 23

An Act to consolidate the enactments relating to value added tax, including certain enactments relating to VAT tribunals. [5th July 1994]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act extended (27.7.1999) by 1999 c. 16, s. 13(6)
- C2 Act: Crown status for the purposes of the Act extended (6.5.1999) by S.I. 1999/677, art. 6
- C3 Act modified (3.5.2007) by The National Assembly for Wales Commission (Crown Status) Order 2007 (S.I. 2007/1118), art. 4
- C4 Act applied (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 16 (with reg. 15); S.I. 2020/1641, reg. 2, Sch.
- C5 Act modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 32; S.I. 2020/1641, reg. 2, Sch.
- C6 Act applied (with modifications) (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 20(4) (with reg. 21); S.I. 2020/1641, reg. 2, Sch.
- C7 Act modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 19(6); S.I. 2020/1641, reg. 2, Sch.
- C8 Act applied (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 34 (with reg. 33); S.I. 2020/1641, reg. 2, Sch.
- C9 Act modified (temp.) (with effect in accordance with s. 93(5)-(10) of the amending Act) by Finance Act 2021 (c. 26), s. 93(2)

*Status: Point in time view as at 26/07/2021.*

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## PART I

### THE CHARGE TO TAX

#### *Imposition and rate of VAT*

#### 1 Value added tax.

- (1) Value added tax shall be charged, in accordance with the provisions of this Act—
- (a) on the supply of goods or services in the United Kingdom (including anything treated as such a supply),  
<sup>F1</sup>(b) .....
  - <sup>F2</sup>(c) on the importation of goods into the United Kingdom,]
- and references in this Act to VAT are references to value added tax.
- (2) VAT on any supply of goods or services is a liability of the person making the supply and (subject to provisions about accounting and payment) becomes due at the time of supply.
- <sup>F3</sup>(3) .....
- (4) VAT on the importation of goods [<sup>F4</sup>into the United Kingdom] shall be charged and payable as if it were [<sup>F5</sup>import duty].

#### Textual Amendments

- F1** S. 1(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), **ss. 41(2)(a), 57(3)** (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), **regs. 1(2), 21**), [S.I. 2020/1545](#), **Pt. 4** and [2020 c. 26](#), **Sch. 2 para. 7(7)-(9)**); [S.I. 2020/1642](#), **reg. 4(b)** (with [reg. 7](#))
- F2** S. 1(1)(c) substituted (28.1.2019 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), **ss. 41(2)(b), 57(3)** (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), **regs. 1(2), 21**), [S.I. 2020/1545](#), **Pt. 4** and [2020 c. 26](#), **Sch. 2 para. 7(7)-(9)**); [S.I. 2019/104](#), **reg. 2**; [S.I. 2020/1642](#), **reg. 4(b)** (with [reg. 7](#))
- F3** S. 1(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), **s. 57(3), Sch. 8 para. 2(2)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), **regs. 1(2), 21**), [S.I. 2020/1545](#), **Pt. 4** and [2020 c. 26](#), **Sch. 2 para. 7(7)-(9)**); [S.I. 2020/1642](#), **reg. 4(b)** (with [reg. 7](#))
- F4** Words in s. 1(4) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), **s. 57(3), Sch. 8 para. 2(3)(a)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), **regs. 1(2), 21**), [S.I. 2020/1545](#), **Pt. 4** and [2020 c. 26](#), **Sch. 2 para. 7(7)-(9)**); [S.I. 2020/1642](#), **reg. 4(b)** (with [reg. 7](#))
- F5** Words in s. 1(4) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), **s. 57(3), Sch. 8 para. 2(3)(b)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), **regs. 1(2), 21**), [S.I. 2020/1545](#), **Pt. 4** and [2020 c. 26](#), **Sch. 2 para. 7(7)-(9)**); [S.I. 2020/1642](#), **reg. 4(b)** (with [reg. 7](#))

#### 2 Rate of VAT.

- (1) Subject to the following provisions [<sup>F6</sup>and to the provisions of section 29A] of this section <sup>F7</sup>..., VAT shall be charged at the rate of [<sup>F8</sup>20 per cent] and shall be charged—

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- (a) on the supply of goods or services, by reference to the value of the supply as determined under this Act; and
  - <sup>F9</sup>(b) .....
  - (c) on the importation of goods <sup>F10</sup> ..., by reference to the value of the goods as determined under this Act.
- <sup>F11</sup>(1A) .....
- <sup>F11</sup>(1B) .....
- <sup>F12</sup>(1C) .....
- (2) The Treasury may by order increase or decrease the rate of VAT for the time being in force [<sup>F13</sup>under this section] by such percentage thereof not exceeding 25 per cent. as may be specified in the order, but any such order [<sup>F14</sup>that has not previously expired or been revoked] shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order under this subsection.
- (3) In relation to an order made under subsection (2) above to continue, vary or replace a previous order, the reference in that subsection to the rate for the time being in force [<sup>F13</sup>under this section] is a reference to the rate which would be in force if no order under that subsection had been made.

#### Textual Amendments

- F6** Words in s. 2(1) inserted (11.5.2001 with effect as mentioned in s. 99(7)(a) of the amending Act) by 2001 c. 9, s. 99(2)
- F7** Words in s. 2(1) omitted (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by virtue of 1995 c. 4, s. 21(2)
- F8** Words in s. 2(1) substituted (27.7.2010) by Finance (No. 2) Act 2010 (c. 31), s. 3(1)
- F9** S. 2(1)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 3(a) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F10** Words in s. 2(1)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 3(b) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F11** S. 2(1A)(1B) repealed (11.5.2001 with effect as mentioned in s. 99(7) of the amending Act) by 2001 c. 9, ss. 99(3), 110, Sch. 33 Pt. 3(1) Note 2
- F12** S. 2(1C) repealed (1.11.2001) by 2001 c. 9, ss. 99(3), 110, Sch. 33 Pt. 3(1) Note 1
- F13** Words in s. 2(2)(3) inserted (11.5.2001 with effect as mentioned in s. 99(9)(a) of the amending Act) by 2001 c. 9, s. 99, Sch. 31 para. 2
- F14** Words in s. 2(2) inserted (with effect in accordance with Sch. 3 para. 11 of the amending Act) by Finance Act 2009 (c. 10), Sch. 3 para. 25(2)

#### Modifications etc. (not altering text)

- C10** S. 2(1) modified (1.12.2008) by The Value Added Tax (Change of Rate) Order 2008 (S.I. 2008/3020), arts. 1, 3

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### 3 Taxable persons and registration.

- (1) A person is a taxable person for the purposes of this Act while he is, or is required to be, registered under this Act.
- (2) [<sup>F15</sup>Schedules 1 to 3A] shall have effect with respect to registration [<sup>F16</sup>(and see also Parts 8 and 9 of Schedule 9ZA which contain further provisions about registration)].
- (3) Persons registered under any of those Schedules [<sup>F17</sup>and Part 8 and 9 of Schedule 9ZA] shall be registered in a single register kept by the Commissioners for the purposes of this Act; and, accordingly, references in this Act to being registered under this Act are references to being registered under any of those Schedules [<sup>F18</sup>or those Parts].
- (4) The Commissioners may by regulations make provision as to the inclusion and correction of information in that register with respect to the Schedule under which any person is registered.

#### Textual Amendments

- F15** Words in s. 3(2) substituted (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by 2000 c. 17, s. 136(1)
- F16** Words in s. 3(2) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 3(a)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F17** Words in s. 3(3) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 3(b)(i)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F18** Words in s. 3(3) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 3(b)(ii)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**

### <sup>F19</sup>3A Supplies of electronic, telecommunication and broadcasting services: special accounting schemes

#### Textual Amendments

- F19** S. 3A omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 4** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

#### *Supply of goods or services in the United Kingdom*

### 4 Scope of VAT on taxable supplies.

- (1) VAT shall be charged on any supply of goods or services made in the United Kingdom, where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.

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- (2) A taxable supply is a supply of goods or services made in the United Kingdom other than an exempt supply.

## **5 Meaning of supply: alteration by Treasury order.**

- (1) Schedule 4 shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.

- (2) Subject to any provision made by that Schedule and to Treasury orders under subsections (3) to (6) below—

- (a) “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
- (b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.

- (3) The Treasury may by order provide with respect to any description of transaction—

- (a) that it is to be treated as a supply of goods and not as a supply of services; or
- (b) that it is to be treated as a supply of services and not as a supply of goods; or
- (c) that it is to be treated as neither a supply of goods nor a supply of services;

and without prejudice to the foregoing, such an order may provide that paragraph 5(4) of Schedule 4 is not to apply, in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that paragraph <sup>F20</sup>....

- [<sup>F21</sup>(3A) An order under subsection (3) may provide that paragraph 30 of Schedule 9ZB does not apply, in such circumstances as may be described in the order, so as to make a removal of assets a supply of goods under that paragraph.]

- (4) Without prejudice to subsection (3) above, the Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—

- (a) a person carrying on a business does anything which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and

- (b) such other conditions as may be specified in the order are satisfied,
- such services are treated for the purposes of this Act as being supplied by him in the course or furtherance of that business.

- (5) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order, that where in such circumstances as may be specified in the order goods of a description so specified are taken possession of or produced by a person in the course or furtherance of a business carried on by him and—

- (a) are neither supplied to another person nor incorporated in other goods produced in the course or furtherance of that business; but

- (b) are used by him for the purpose of a business carried on by him,
- the goods are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.

- (6) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—

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- (a) a person, in the course or furtherance of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and
  - (b) such other conditions as may be specified in the order are satisfied,
- such services are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.
- (7) For the purposes of this section, where goods are manufactured or produced from any other goods, those other goods shall be treated as incorporated in the first-mentioned goods.
- (8) An order under subsection (4) or (6) above may provide for the method by which the value of any supply of services which is treated as taking place by virtue of the order is to be calculated.

#### Textual Amendments

- F20** Words in s. 5(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 5](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F21** S. 5(3A) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 4](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)

#### Modifications etc. (not altering text)

- C11** S. 5 applied (with modifications) (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 34\(4\)](#) (with [Sch. 36 para. 38](#)); S.I. 2009/404, art. 2

### [<sup>F22</sup>5A Supplies of goods facilitated by online marketplaces: deemed supply

- (1) This section applies where—
- (a) a person (“P”) makes a taxable supply of goods in the course or furtherance of a business to another person (“R”),
  - (b) that supply is facilitated by an online marketplace, and
  - [ one of the following applies—
- <sup>F23</sup>(c) (i) the imported consignment condition is met, or
- (ii) the supply of goods to R does not involve those goods being imported, but P is established outside the United Kingdom.]

[ But this section does not apply in a case where P is established outside the United Kingdom and the imported consignment condition is not met if—

- <sup>F24</sup>(1A) (a) R is registered under this Act,
- (b) R has provided the operator of the online marketplace with R's VAT registration number, and
- (c) the operator of the online marketplace has provided P with that number and details of the supply before the end of the relevant period.]

- (2) For the purposes of this Act—

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- (a) P is to be treated as having supplied the goods to the operator of the online marketplace, and
  - (b) the operator is to be treated as having supplied the goods to R in the course or furtherance of a business carried on by the operator.
- (3) The imported consignment condition is met where—
- (a) the supply of the goods to R involves those goods being imported,
  - (b) the intrinsic value of the consignment of which the goods are part is not more than £135, and
  - (c) the consignment of which the goods are part—
    - (i) does not contain excepted goods, and
    - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.
- (4) For the purposes of subsection (3)(c)(i), “excepted goods” means goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods.
- (5) The Commissioners may by regulations<sup>F25</sup>—
- (a) specify the details that must be provided for the purposes of subsection (1A)(c);
  - (b) substitute a different figure for a figure that is at any time specified in subsection (3)(b).

[ In this section—

<sup>F26</sup>(6) “relevant period” means the period of 7 days beginning with the day on which the supply is treated as taking place under section 6 or such longer period as the Commissioners may allow in general or specific directions;

“VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.]]

#### Textual Amendments

- F22** S. 5A inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 2** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F23** S. 5A(1)(c) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 3(2)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F24** S. 5A(1A) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 3(3)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F25** Words in s. 5A(5) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 3(4)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F26** S. 5A(6) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 3(5)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**

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**6 Time of supply.**

- (1) The provisions of this section shall apply, subject to <sup>F27</sup>sections 18, 18B and 18C] for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to VAT.
- (2) Subject to subsections (4) to (14) below, a supply of goods shall be treated as taking place—
  - (a) if the goods are to be removed, at the time of the removal;
  - (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
  - (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place or, if sooner, 12 months after the removal.
- (3) Subject to subsections (4) to (14) below, a supply of services shall be treated as taking place at the time when the services are performed.
- (4) If, before the time applicable under subsection (2) or (3) above, the person making the supply issues a VAT invoice in respect of it or if, before the time applicable under subsection (2)(a) or (b) or (3) above, he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received.
- (5) If, within 14 days after the time applicable under subsection (2) or (3) above, the person making the supply issues a VAT invoice in respect of it, then, unless he has notified the Commissioners in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (4) above) be treated as taking place at the time the invoice is issued.
- (6) The Commissioners may, at the request of a taxable person, direct that subsection (5) above shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.
- <sup>F28</sup>(7) .....
- <sup>F28</sup>(8) .....
- <sup>F29</sup>(9) .....
- (10) The Commissioners may, at the request of a taxable person, by direction alter the time at which supplies made by him (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either—
  - (a) by directing those supplies to be treated as taking place—
    - (i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or
    - (ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur, the resulting times or dates being in every case earlier than would otherwise apply; or
  - (b) by directing that, notwithstanding subsections (5) and (6) above, those supplies shall (to the extent that they are not treated as taking place at the time mentioned in subsection (4) above) be treated as taking place—



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- (i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or
- (ii) at the end of the relevant working period (as so defined).
- (11) Where goods are treated as supplied by an order under section 5(5), the supply is treated as taking place when they are appropriated to the use mentioned in that section.
- (12) Where there is a supply of goods by virtue only of paragraph 5(1) of Schedule 4, the supply is treated as taking place when the goods are transferred or disposed of as mentioned in that paragraph.
- (13) Where there is a supply of services by virtue only of paragraph 5(4) of Schedule 4, the supply is treated as taking place when the goods are appropriated to the use mentioned in that paragraph.
- (14) The Commissioners may by regulations make provision with respect to the time at which (notwithstanding [<sup>F30</sup>subsections (2) to (6)] and (11) to (13) above or section 55(4)) a supply is to be treated as taking place in cases where—
- (a) it is a supply of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period, or
  - (b) it is a supply of goods for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose, or
  - (c) there is a supply to which section 55 applies, or
  - (d) there is a supply of services by virtue of paragraph 5(4) of Schedule 4 or an order under section 5(4);
- and for any such case as is mentioned in this subsection the regulations may provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.
- [<sup>F31</sup>(14A) <sup>F32</sup>... this section and any regulations under this section or section 8(4) shall have effect subject to section 97A.]
- (15) In this Act “VAT invoice” means such an invoice as is required under [<sup>F33</sup>paragraph 2A] of Schedule 11, or would be so required if the person to whom the supply is made were a person to whom such an invoice should be issued.

#### Textual Amendments

- F27** Words in s. 6(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 1**; S.I. 1996/1249, **art. 2**
- F28** S. 6(7)(8) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 6(2)** (with **Sch. 8 para. 99**) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F29** S. 6(9) repealed (1.12.2003) by **Finance Act 2002 (c. 23), s. 24(5), Sch. 40 Pt. 2**; S.I. 2003/3043, **art. 2**
- F30** Words in s. 6(14) substituted (31.12.2020) by **Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 6(3)** (with **Sch. 8 para. 99**) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F31** S. 6(14A) inserted (retrospective to 17.3.1998) by 1998 c. 36, **s. 22(2)(3)**

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- F32** Words in s. 6(14A) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 36 para. 2 (with Sch. 36 para. 19)
- F33** Words in s. 6(15) substituted (1.12.2003) by Finance Act 2002 (c. 23), s. 24(4)(a)(5); S.I. 2003/3043, art. 2

## 7 Place of supply [<sup>F34</sup>of goods].

- (1) This section shall apply (subject to [<sup>F35</sup>sections <sup>F36</sup>... 18 and 18B]) for determining, for the purposes of this Act, whether goods <sup>F37</sup>... are supplied in the United Kingdom.
- (2) Subject to the following provisions of this section, if the supply of any goods does not involve their removal from or to the United Kingdom they shall be treated as supplied in the United Kingdom if they are in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom.
- (3) Goods shall be treated—
- (a) as supplied in the United Kingdom where their supply involves their installation or assembly at a place in the United Kingdom to which they are removed; and
  - (b) as supplied outside the United Kingdom where their supply involves their installation or assembly at a place outside the United Kingdom to which they are removed.
- <sup>F38</sup>(4) .....
- <sup>F38</sup>(5) .....
- [<sup>F39</sup>(5A) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied outside the United Kingdom where the supply—
- (a) meets the imported consignment condition in section 5A; and
  - (b) is deemed to be to the operator of an online marketplace.
- (5B) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) they are supplied by a person in the course or furtherance of a business carried on by that person;
  - (b) the supply involves the goods being imported;
  - (c) the intrinsic value of the consignment of which the goods are part is not more than £135; and
  - (d) the consignment of which the goods are part—
    - (i) does not contain goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods; and
    - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.]
- (6) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) their supply involves their being imported <sup>F40</sup>...; and

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- (b) the person who supplies them is the person by whom, or under whose directions, they are so imported.
- (7) Goods whose place of supply is not determined under any of the preceding provisions of this section but whose supply involves their removal to or from the United Kingdom shall be treated—
- (a) as supplied in the United Kingdom where their supply involves their removal from the United Kingdom without also involving their previous removal to the United Kingdom; and
- (b) as supplied outside the United Kingdom in any other case.
- (8) For the purposes of the preceding provisions of this section, where goods, in the course of their removal from a place in the United Kingdom to another place in the United Kingdom, leave and re-enter the United Kingdom the removal shall not be treated as a removal from or to the United Kingdom.
- <sup>F41</sup>(9) . . . . .
- [<sup>F42</sup>(9A) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (5B)(c).]
- <sup>F43</sup>(10) . . . . .
- (11) The Treasury may by order provide, in relation to goods <sup>F44</sup>... generally or to particular goods <sup>F44</sup>... specified in the order, for varying the rules for determining where a supply of goods <sup>F44</sup>... is made.
- [<sup>F45</sup>(12) The Commissioners may by regulations provide that any rule for determining where a supply of goods is made is subject to such conditions relating to the notification of matters to the Commissioners, or such other conditions, as may be specified in the regulations.]

#### Textual Amendments

- F34** Words in s. 7 heading inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 3\(5\)](#) (with [Sch. 36 para. 19](#))
- F35** Words in s. 7(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8, ss. 25, 26](#), [Sch. 3 para. 2](#); [S.I. 1996/1249, art. 2](#)
- F36** Word in s. 7(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 7\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F37** Words in s. 7(1) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 3\(2\)](#) (with [Sch. 36 para. 19](#))
- F38** S. 7(4)(5) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 7\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F39** S. 7(5A)(5B) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), [s. 11\(1\)\(e\)](#), [Sch. 3 para. 4\(2\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 9](#)
- F40** Words in s. 7(6)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 7\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I.](#)

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- 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F41** S. 7(9) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 7(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F42** S. 7(9A) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 4(3)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F43** S. 7(10) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 36 para. 3(3)** (with Sch. 36 para. 19)
- F44** Words in s. 7(11) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 36 para. 3(4)** (with Sch. 36 para. 19)
- F45** S. 7(12) inserted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 7(6)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

#### [<sup>F46</sup>7AA Reverse charge on goods supplied from abroad

- (1) This section applies where—
- (a) goods are supplied by a person (“A”) to another person (“B”),
  - (b) B is registered under this Act,
  - (c) the supply involves the goods being imported,
  - (d) the intrinsic value of the consignment of which the goods are part is not more than £135, and
  - (e) the consignment of which the goods are part—
    - (i) does not contain goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods, and
    - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.
- (2) This Act has effect as if, instead of there being a supply of the goods by A to B—
- (a) there were a supply of the goods by B in the course of furtherance of a business carried on by B, and
  - (b) that supply were a taxable supply.
- (3) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (1)(d).]

#### Textual Amendments

- F46** S. 7AA inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 5** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**

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## [<sup>F47</sup>7A Place of supply of services

- (1) This section applies for determining, for the purposes of this Act, the country in which services are supplied.
- (2) A supply of services is to be treated as made—
  - (a) in a case in which the person to whom the services are supplied is a relevant business person, in the country in which the recipient belongs, and
  - (b) otherwise, in the country in which the supplier belongs.
- (3) The place of supply of a right to services is the same as that in which the supply of the services would be treated as made if made by the supplier of the right to the recipient of the right (whether or not the right is exercised); and for this purpose a right to services includes any right, option or priority with respect to the supply of services and an interest deriving from a right to services.
- [<sup>F48</sup>(4) For the purposes of this Act a person is a relevant business person in relation to a supply of services if—
  - (a) the person carries on a business, and
  - (b) the services are not received by the person wholly for private purposes, whether or not the services are received in the course of business.]
  - (5) Subsection (2) has effect subject to Schedule 4A.
  - (6) The Treasury may by order—
    - (a) amend subsection (4),
    - (b) amend Schedule 4A, or
    - (c) otherwise make provision for exceptions from either or both of the paragraphs of subsection (2).
  - (7) An order under subsection (6) may include incidental, supplemental, consequential and transitional provision.]

### Textual Amendments

- F47** S. 7A inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 4](#) (with [Sch. 36 paras. 14\(1\), 19](#))
- F48** S. 7A(4) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 8](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

## 8 Reverse charge on supplies received from abroad.

- [<sup>F49</sup>(1) Where services are supplied by a person who belongs in a country other than the United Kingdom in circumstances in which this subsection applies, this Act has effect as if (instead of there being a supply of the services by that person)—
  - (a) there were a supply of the services by the recipient in the United Kingdom in the course or furtherance of a business carried on by the recipient, and
  - (b) that supply were a taxable supply.]
- [<sup>F49</sup>(2) Subsection (1) above applies if—

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- (a) the recipient is a relevant business person who belongs in the United Kingdom, and
- (b) the place of supply of the services is inside the United Kingdom,
- and, where the supply of the services is one to which any paragraph of Part 1 or 2 of Schedule 4A applies, the recipient is registered under this Act.]
- (3) Supplies which are treated as made by the recipient under subsection (1) above are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).
- (4) In applying subsection (1) above, the supply of services treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases within that subsection.
- [<sup>F50</sup>(4A) Subsection (1) does not apply to services of any of the descriptions specified in Schedule 9.]
- (5) The Treasury may by order [<sup>F51</sup>amend subsection (4A) by altering the descriptions of services specified in that subsection].
- <sup>F52</sup>(6) . . . . .
- [<sup>F53</sup>(7) The power of the Treasury by order to [<sup>F54</sup>amend subsection (4A)] shall include power to make such incidental, supplemental, consequential and transitional provision in connection with any [<sup>F55</sup>amendment of that subsection] as they think fit.
- (8) Without prejudice to the generality of subsection (7) above, the provision that may be made under that subsection includes—
- (a) provision making such modifications of section 43(2A) to (2E) as the Treasury may think fit in connection with any [<sup>F56</sup>amendment of subsection (4A)]; and
- (b) provision modifying the effect of any regulations under subsection (4) above in relation to any services added to [<sup>F57</sup>that subsection].]

#### Textual Amendments

- F49** S. 8(1)(2) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(2\)](#) (with [Sch. 36 para. 19](#))
- F50** S. 8(4A) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(3\)](#) (with [Sch. 36 para. 19](#))
- F51** Words in s. 8(5) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(4\)](#) (with [Sch. 36 para. 19](#))
- F52** S. 8(6) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(5\)](#) (with [Sch. 36 para. 19](#))
- F53** S. 8(7)(8) inserted (19.3.1997) by [1997 c. 16, s. 42](#)
- F54** Words in s. 8(7) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(6\)\(a\)](#) (with [Sch. 36 para. 19](#))
- F55** Words in s. 8(7) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(6\)\(b\)](#) (with [Sch. 36 para. 19](#))
- F56** Words in s. 8(8) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(7\)\(a\)](#) (with [Sch. 36 para. 19](#))
- F57** Words in s. 8(8) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(7\)\(b\)](#) (with [Sch. 36 para. 19](#))

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**[<sup>F58</sup>9 Place where supplier or recipient of services belongs.**

- (1) This section has effect for determining for the purposes of section 7A (or Schedule 4A) or section 8, in relation to any supply of services, whether a person who is the supplier or recipient belongs in one country or another.
- (2) A person who is a relevant business person is to be treated as belonging in the relevant country.
- (3) In subsection (2) “the relevant country” means—
  - (a) if the person has a business establishment, or some other fixed establishment, in a country (and none in any other country), that country,
  - (b) if the person has a business establishment, or some other fixed establishment or establishments, in more than one country, the country in which the relevant establishment is, and
  - (c) otherwise, the country in which the person's usual place of residence [<sup>F59</sup>or permanent address] is.
- (4) In subsection (3)(b) “relevant establishment” means whichever of the person's business establishment, or other fixed establishments, is most directly concerned with the supply.
- (5) A person who is not a relevant business person is to be treated as [<sup>F60</sup>belonging—
  - (a) in the country in which the person's usual place of residence or permanent address is (except in the case of a body corporate or other legal person);
  - (b) in the case of a body corporate or other legal person, in the country in which the place where it is established is.]

<sup>F61</sup>(6) . . . . .]

**Textual Amendments**

- F58** S. 9 substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 6](#) (with [Sch. 36 para. 19](#))
- F59** Words in s. 9(3)(c) inserted (with effect in accordance with s. 104(5) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 104\(2\)](#)
- F60** Words in s. 9(5) substituted (with effect in accordance with s. 104(5) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 104\(3\)](#)
- F61** S. 9(6) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 9](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)

**[<sup>F62</sup>9A Reverse charge on gas [<sup>F63</sup>, electricity, heat or cooling]<sup>F64</sup>...**

- (1) This section applies if relevant goods are supplied—
  - (a) by a person who is outside the United Kingdom,
  - (b) to a person who is registered under this Act,for the purposes of any business carried on by the recipient.

[ This section also applies if relevant goods are supplied by a person (“A”) to another <sup>F65</sup>(1A) person (“B”) for the purposes of any business carried on by B and—

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- (a) A is in Great Britain and B is registered under this Act and is identified for the purposes of VAT in Northern Ireland, or
  - (b) A is in Northern Ireland and B is so registered but is not so identified.]
- (2) The same consequences follow under this Act (and particularly so much as charges VAT on a supply and entitles a taxable person to credit for input tax) as if—
- (a) the recipient had himself supplied the relevant goods in the course or furtherance of his business, and
  - (b) that supply were a taxable supply.
- (3) But supplies which are treated as made by the recipient under subsection (2) are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).
- (4) In applying subsection (2) the supply of relevant goods treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases to which this section applies.
- [<sup>F66</sup>(5) Relevant goods” means—
- (a) gas supplied through a natural gas system [<sup>F67</sup>in [<sup>F68</sup>Great Britain]] or any network connected to [<sup>F69</sup>a natural gas system in [<sup>F68</sup>Great Britain]],
  - [<sup>F70</sup>(aa) gas supplied through a natural gas system situated within Northern Ireland or the territory of a member State or any network connected to such a system,]
  - (b) electricity, and
  - (c) heat or cooling supplied through a network.]
- (6) Whether a person is outside the United Kingdom [<sup>F71</sup>, in Great Britain or in Northern Ireland] is to be determined in accordance with an order made by the Treasury.]

#### Textual Amendments

- F62** S. 9A inserted (22.7.2004 with effect in accordance with s. 21(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 21\(1\)](#)
- F63** Words in s. 9A heading substituted (with effect in accordance with s. 20(3) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 20\(1\)\(b\)](#)
- F64** Words in s. 9A heading omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), [s. 11\(1\)\(e\)](#), [Sch. 2 para. 5\(2\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)
- F65** S. 9A(1A) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), [s. 11\(1\)\(e\)](#), [Sch. 2 para. 5\(3\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)
- F66** S. 9A(5) substituted (with effect in accordance with s. 20(3) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 20\(1\)\(a\)](#)
- F67** Words in s. 9A(5)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 10\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, [regs. 1\(2\)](#), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F68** Words in s. 9A(5)(a) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), [s. 11\(1\)\(e\)](#), [Sch. 2 para. 5\(4\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)
- F69** Words in s. 9A(5)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 10\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I.



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2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F70** S. 9A(5)(aa) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), Sch. 2 para. 5(4)(b) (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9

**F71** Words in s. 9A(6) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), Sch. 2 para. 5(5) (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9

**Modifications etc. (not altering text)**

**C12** S. 9A(1A) modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 31; S.I. 2020/1641, reg. 2, Sch.

*Acquisition of goods from member States*

**F72<sup>10</sup> Scope of VAT on acquisitions from member States.**

.....

**Textual Amendments**

**F72** Ss. 10-14 omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 11 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F72<sup>11</sup> Meaning of acquisition of goods from another member State.**

.....

**Textual Amendments**

**F72** Ss. 10-14 omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 11 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**Modifications etc. (not altering text)**

**C13** S. 11 applied (with modifications) (1.4.2009) by Finance Act 2008 (c. 9), s. 113(2), Sch. 36 para. 34(4) (with Sch. 36 para. 38); S.I. 2009/404, art. 2

**F72<sup>12</sup> Time of acquisition.**

.....

**Textual Amendments**

**F72** Ss. 10-14 omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 11 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as

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amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### <sup>F72</sup> 13 Place of acquisition.

.....

#### Textual Amendments

**F72** Ss. 10-14 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 11](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### <sup>F72</sup> 14 Acquisitions from persons belonging in other member States.

.....

#### Textual Amendments

**F72** Ss. 10-14 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 11](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

*[<sup>F73</sup> Goods supplied between the UK and member States under call-off stock arrangements]*

#### Textual Amendments

**F73** S. 14A and cross-heading inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), s. **80(2)**

### <sup>F74</sup> 14A Call-off stock arrangements

.....

#### Textual Amendments

**F74** S. 14A omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 7\(1\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)

*Importation of goods <sup>F75</sup> ...*

#### Textual Amendments

**F75** Words in s. 15 cross-heading omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 12](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions

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in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

## [<sup>F76</sup>15 Meaning of “importation of goods” into the United Kingdom

- (1) This section determines for the purposes of this Act when, and by whom, goods are imported into the United Kingdom.
- (2) Goods are imported when they are declared for a Customs procedure under Part 1 of TCTA 2018.
- (3) But—
  - (a) in the case of goods declared under TCTA 2018 for a storage procedure, a transit procedure or an inward processing procedure, the goods are imported when a liability to import duty is, or on the relevant assumptions would be, incurred in respect of them under section 4 of that Act, and
  - (b) in the case of goods which are liable to forfeiture as a result of section 5(1) of, or paragraph 1(5) or 3(4) of Schedule 1 to, that Act (goods not presented to Customs or Customs declaration not made), the goods are imported when they become liable to forfeiture as a result of those provisions.
- (4) Each person who is, or on the relevant assumptions would be, liable to import duty in respect of goods imported into the United Kingdom is a person who has imported the goods.
- (5) For the purposes of this section “the relevant assumptions” are—
  - (a) an assumption that a liability to import duty at a nil rate is replaced by a liability to import duty at a higher rate, and
  - (b) an assumption that no relief from import duty is available.
- (6) If two or more persons are regarded as importing goods, those persons are jointly and severally liable to any VAT that is payable on the importation.
- (7) The preceding provisions of this section are to be ignored in reading any reference to importation or to an importer in anything applied for the purposes of this Act by section 16(1) or (2).
- (8) But subsection (7) does not apply so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(3).]

### Textual Amendments

**F76** S. 15 substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [ss. 41\(3\)](#), [57\(3\)](#) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

### Modifications etc. (not altering text)

**C14** S. 15 applied (with modifications) (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), [s. 113\(2\)](#), [Sch. 36 para. 34\(4\)](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), [art. 2](#)

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## [<sup>F77</sup>16 Application of customs enactments

- (1) The provision made by or under—
- (a) the Customs and Excise Acts 1979 (as defined in the Management Act), and
  - (b) the other enactments for the time being having effect generally in relation to duties of customs and excise charged by reference to the importation of goods into the United Kingdom,
- apply (so far as relevant) in relation to any VAT chargeable on the importation of goods into the United Kingdom as they apply in relation to any duty of customs or excise.
- (2) The provision made by section 1(4) for VAT on the importation of goods to be charged and payable as if it were import duty is to be taken as applying, in relation to any VAT chargeable on the importation of the goods, the provision made by or under Part 1 of TCTA 2018.]

### Textual Amendments

**F77** S. 16 substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 13](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

### Modifications etc. (not altering text)

- C15** S. 16 restricted (31.12.2020) by [The Value Added Tax \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1546\)](#), [regs. 1](#), [16](#) (with [reg. 15](#)); [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)
- C16** S. 16 restricted (31.12.2020) by [The Value Added Tax \(Northern Ireland\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1546\)](#), [regs. 1](#), [34](#) (with [reg. 33](#)); [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)
- C17** S. 16(2) modified (31.12.2020) by [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1495\)](#), [regs. 1\(2\)](#), [4-7](#); [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)
- C18** S. 16(2) modified (31.12.2020) by [The Value Added Tax \(Accounting Procedures for Import VAT for VAT Registered Persons and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/60\)](#), [regs. 1](#), [3\(3\)](#) (with [reg. 3\(1\)\(2\)](#)) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [20\(3\)](#)); [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)

## [<sup>F78</sup>16A Postal packets

- (1) The Commissioners may by regulations impose a liability to VAT on a person outside the United Kingdom in respect of the entry of goods into the United Kingdom if the person sent, or arranged for the sending of, the goods to their recipient in a postal packet <sup>F79</sup>....
- (2) The regulations may—
- (a) provide that a liability to VAT arises only in relation to goods of a value described in the regulations,
  - (b) provide that in cases specified in the regulations, other persons are jointly and severally liable for the VAT, and
  - (c) provide that the entry of the goods into the United Kingdom is not an importation for the purposes of this Act.
- (3) Among other provision that may be made by the regulations, the regulations may make provision—

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- (a) requiring persons to register under the regulations for the purpose of accounting for VAT imposed under the regulations,
  - (b) modifying the application of this Act in relation to cases dealt with by the regulations, and
  - (c) requiring persons to provide information to the Commissioners about the goods or the person who sent, or arranged for the sending of, the goods.
- (4) Regulations under this section may make different provision for different purposes.]

#### Textual Amendments

- F78** S. 16A inserted (16.12.2018) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 14](#) (with [Sch. 8 para. 99](#)); S.I. 2018/1362, reg. 2
- F79** Words in s. 16A(1) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 6](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

## 17 Free zone regulations.

- (1) This section applies in relation to VAT chargeable on the importation of goods <sup>F80</sup>...; and in this section “free zone” has the meaning given by section 100A(2) of the Management Act.
- (2) <sup>F81</sup>... Goods which are chargeable with VAT may be moved into a free zone and may remain as free zone goods without payment of VAT.
- (3) The Commissioners may by regulations (“free zone regulations”) make provision with respect to the movement of goods into, and the removal of goods from, any free zone and the keeping, securing and treatment of goods which are within a free zone, and subject to any provision of the regulations, “free zone goods” means goods which are within a free zone.
- (4) Without prejudice to the generality of subsection (3), free zone regulations may make provision—
  - (a) for enabling the Commissioners to allow goods to be removed from a free zone without payment of VAT in such circumstances and subject to such conditions as they may determine;
  - (b) for determining where any VAT becomes payable in respect of goods which cease to be free zone goods—
    - (i) the rates of any VAT applicable; and
    - (ii) the time at which those goods cease to be free zone goods;
  - (c) for determining for the purpose of enabling VAT to be charged in respect of free zone goods in a case where a person wishes to pay that VAT notwithstanding that the goods will continue to be free zone goods, the rate of VAT to be applied; and
  - (d) permitting free zone goods to be destroyed without payment of VAT in such circumstances and subject to such conditions as the Commissioners may determine.
- (5) The Commissioners, with respect to free zone goods or the movement of goods into any free zone, may by regulations make provision—

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- (a) for relief from the whole or part of any VAT chargeable on the importation of goods <sup>F82</sup>... in such circumstances as they may determine;
- (b) in place of, or in addition to, any provision made by section 6 or any other enactment, for determining the time when a supply of goods which are or have been free zone goods is to be treated as taking place for the purposes of the charge to VAT; and
- (c) as to the treatment, for the purposes of VAT, of goods which are manufactured or produced within a free zone from other goods or which have other goods incorporated in them while they are free zone goods.

#### Textual Amendments

- F80** Words in s. 17(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 15\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)–\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F81** Words in s. 17(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 15\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)–\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F82** Words in s. 17(5)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 15\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)–\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

#### *Goods subject to a warehousing regime*

#### 18 Place and time of <sup>F83</sup>... supply.

[<sup>F84</sup>(1) A supply of goods which are subject to a warehousing regime is to be treated, for the purposes of this Act, as taking place outside the United Kingdom where —

- (a) those goods have been brought into the United Kingdom,
- (b) the material time of that supply is while those goods are subject to that regime and before the duty point, and
- (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom.]

[<sup>F85</sup>(1A) The Commissioners may by regulations prescribe circumstances in which subsection (1) above shall not apply.]

(2) Subsection (3) below applies where—

- <sup>F86</sup>(a) .....
- (b) any person makes a supply of—
  - (i) any dutiable goods which were produced or manufactured in the United Kingdom <sup>F87</sup>...; or
  - (ii) any goods comprising a mixture of goods falling within subparagraph (i) above and other goods.

(3) Where this subsection applies and the material time for the <sup>F88</sup>... supply mentioned in subsection (2) above is while the goods in question are subject to a warehousing regime and before the duty point, that <sup>F88</sup>... supply shall be treated for the purposes of this Act

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as taking place outside the United Kingdom if the material time for any subsequent supply of those goods is also while the goods are subject to the warehousing regime and before the duty point.

- (4) Where the material time for any <sup>F89</sup>... supply of any goods in relation to which subsection (3) above applies is while the goods are subject to a warehousing regime and before the duty point but the <sup>F89</sup>... supply nevertheless falls, for the purposes of this Act, to be treated as taking place in the United Kingdom—
- (a) that <sup>F90</sup>... supply shall be treated for the purposes of this Act as taking place at the earlier of the following times, that is to say, the time when the goods are removed from the warehousing regime and the duty point; and
  - (b) <sup>F91</sup>... any VAT payable on the supply shall be paid (subject to any regulations under subsection (5) below)—
    - (i) at the time when the supply is treated as taking place under paragraph (a) above; and
    - (ii) by the person by whom the goods are so removed or, as the case may be, together with the duty or agricultural levy, by the person who is required to pay the duty or levy.
- [<sup>F92</sup>(5) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of paragraph (b) of subsection (4) above at a time later than that provided for by that paragraph.
- (5A) Regulations under subsection (5) above may in particular make provision for either or both of the following—
- (a) for the taxable person to pay the VAT together with the VAT chargeable on other supplies by him of goods and services;
  - (b) for the taxable person to pay the VAT together with any duty of excise deferment of which has been granted to him under section 127A of the <sup>M1</sup>Customs and Excise Management Act 1979;
- and they may make different provision for different descriptions of taxable person and for different descriptions of goods.]
- (6) In this section—
- “dutiable goods” means any goods which are subject—
    - (a) to a duty of excise; or
    - (b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the [<sup>F93</sup>European Union], to any <sup>F94</sup>... agricultural levy of the [<sup>F93</sup>European Union];
  - “the duty point”, in relation to any goods, means—
    - (a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect; and
    - (b) in the case of goods which are not so subject, the time when [<sup>F95</sup>import duty is incurred in respect of the goods] or, as the case may be, [<sup>F96</sup>the time a debt in respect of any] levy as is mentioned in paragraph (b) of the definition of dutiable goods [<sup>F97</sup>is incurred in respect of the goods];
  - “material time”—
    - (a) in relation to any <sup>F98</sup>... supply the time of which is determined in accordance with regulations under section 6(14) <sup>F98</sup>..., means such time as may be prescribed for the purpose of this section by those regulations;

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- (b) <sup>F99</sup>... and
- (c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted;
  - “warehouse” means any warehouse where goods may be stored in [<sup>F100</sup>the United Kingdom] without payment of any one or more of the following, that is to say—
    - (a) [<sup>F101</sup>import duty];
    - (b) any agricultural levy of the [<sup>F93</sup>European Union];
    - (c) VAT on the importation of the goods <sup>F102</sup>...;
    - (d) any duty of excise <sup>F103</sup>....

- (7) References in this section to goods being subject to a warehousing regime is a reference to goods being kept in a warehouse or being transported between warehouses <sup>F104</sup>... without the payment <sup>F105</sup>... of any duty, levy or VAT; and references to the removal of goods from a warehousing regime shall be construed accordingly.

#### Textual Amendments

- F83** Words in s. 18 heading omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(8\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)
- F84** S. 18(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)
- F85** S. 18(1A) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005](#) (c. 22), s. 1
- F86** S. 18(2)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)
- F87** Words in s. 18(2)(b)(i) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(3\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)
- F88** Words in s. 18(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)
- F89** Words in s. 18(4) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(5\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)
- F90** Words in s. 18(4)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(5\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)
- F91** Words in s. 18(4)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 16\(5\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with reg. 7)



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- F92** S. 18(5)(5A) substituted (1.5.1995) for s. 18(5) by 1995 c. 4, s. 29
- F93** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F94** Words in s. 18(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F95** Words in s. 18(6) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(b)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F96** Words in s. 18(6) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(b)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F97** Words in s. 18(6) inserted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(b)(iii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F98** Words in s. 18(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(c)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F99** Words in s. 18(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(c)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F100** Words in s. 18(6) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(d)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F101** Words in s. 18(6) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(d)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F102** Words in s. 18(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(d)(iii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F103** Words in s. 18(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(6)(d)(iv)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F104** Words in s. 18(7) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(7)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F105** Words in s. 18(7) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 16(7)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

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**Modifications etc. (not altering text)**

**C19** S. 18(4)(a) excluded (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments, Revocation and Transitional Provisions\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/513), regs. 1, **9(2)**; S.I. 2020/1641, reg. 2, Sch.

**Marginal Citations**

**M1** 1979 c. 2.

**[<sup>F106</sup>18A Fiscal warehousing.**

- (1) The Commissioners may, if it appears to them proper, upon application approve any registered person as a fiscal warehousekeeper; and such approval shall be subject to such conditions as they shall impose.
- (2) Subject to those conditions and to regulations made under section 18F such a person shall be entitled to keep a fiscal warehouse.
- (3) “Fiscal warehouse” means such place in the United Kingdom in the occupation or under the control of the fiscal warehousekeeper, not being retail premises, as he shall notify to the Commissioners in writing; and such a place shall become a fiscal warehouse on receipt by the Commissioners of that notification or on the date stated in it as the date from which it is to have effect, whichever is the later, and, subject to subsection (6) below, shall remain a fiscal warehouse so long as it is in the occupation or under the control of the fiscal warehousekeeper or until he shall notify the Commissioners in writing that it is to cease to be a fiscal warehouse.
- (4) The Commissioners may in considering an application by a person to be a fiscal warehousekeeper take into account any matter which they consider relevant, and may without prejudice to the generality of that provision take into account all or any one or more of the following—
  - (a) his record of compliance and ability to comply with the requirements of this Act and regulations made hereunder;
  - (b) his record of compliance and ability to comply with the requirements of the customs and excise Acts <sup>F107</sup> ... and regulations made thereunder;
  - <sup>F108</sup>(c) .....
  - <sup>F108</sup>(d) .....
  - (e) if the applicant is a company the records of compliance and ability to comply with the matters set out at [<sup>F109</sup>(a) and (b)] above of its directors, persons connected with its directors, its managing officers, any shadow directors or any of those persons, and, if it is a close company, the records of compliance and ability to comply with the matters set out at [<sup>F109</sup>(a) and (b)] above of the beneficial owners of the shares of the company or any of them; and
  - (f) if the applicant is an individual the records of compliance and ability to comply with the matters set out at [<sup>F110</sup>(a) and (b)] above of any company of which he is or has been a director, managing officer or shadow director or, in the case of a close company, a shareholder or the beneficial owner of shares,

<sup>F111</sup> ....

<sup>F112</sup>(4A) [ For the purposes of paragraphs (e) and (f) of subsection (4)—

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- (a) a person is “connected” with a director if that person is the director's spouse or civil partner, or is a relative, or the spouse or civil partner of a relative, of the director or of the director's spouse or civil partner;
  - (b) “managing officer” in relation to a body corporate, means any manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity or as a director;
  - (c) “shadow director” has the meaning given by section 251 of the Companies Act 2006;
  - (d) “close company” has the meaning it has in the Corporation Tax Acts (see Chapter 2 of Part 10 of the Corporation Tax Act 2010).]
- (5) Subject to subsection (6) below, a person approved under subsection (1) shall remain a fiscal warehousekeeper until he ceases to be a registered person or until he shall notify the Commissioners in writing that he is to cease to be a fiscal warehousekeeper.
- (6) The Commissioners may if they consider it appropriate from time to time—
- (a) impose conditions on a fiscal warehousekeeper in addition to those conditions, if any, which they imposed under subsection (1), and vary or revoke any conditions previously imposed;
  - (b) withdraw approval of any person as a fiscal warehousekeeper, and
  - (c) withdraw fiscal warehouse status from any premises.
- (7) Any application by or on behalf of a person to be a fiscal warehousekeeper shall be in writing in such form as the Commissioners may direct and shall be accompanied by such information as they shall require.
- (8) Any approval by the Commissioners under subsection (1) above, and any withdrawal of approval or other act by them under subsection (6) above, shall be notified by them to the fiscal warehousekeeper in writing and shall take effect on such notification being made or on any later date specified for the purpose in the notification.
- (9) Without prejudice to the provisions of section 43 concerning liability for VAT, in subsections (1) and (2) above “registered person” includes any [<sup>F113</sup>person who] under that section is for the time being treated as a member of a group.]

#### Textual Amendments

**F106** S. 18A inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

**F107** Words in s. 18A(4)(b) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 17(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**F108** S. 18A(4)(c)(d) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 17(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**F109** Words in s. 18A(4)(e) substituted (31.12.2020) by **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 17(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

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- F110** Words in s. 18A(4)(f) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 17\(d\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F111** Words in s. 18A(4) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 6\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)
- F112** S. 18A(4A) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 6\(b\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)
- F113** Words in s. 18A(9) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), [Sch. 18 para. 4](#); S.I. 2019/1348, [reg. 2](#)

## [<sup>F114</sup>18B Fiscally warehoused goods: relief.

<sup>F115</sup>(1) .....

- (2) Subsections (3) and (4) below <sup>F116</sup>... apply where—
- (a) there is a supply of goods;
  - (b) those goods are eligible goods;
  - (c) either—
    - (i) that supply takes place while the goods are subject to a fiscal warehousing regime; or
    - (ii) after that supply but before the supply, if any, of those goods which next occurs, the person to whom the former supply is made causes the goods to be placed in a fiscal warehousing regime;
  - (d) in a case falling within paragraph (c)(ii) above, the person to whom the supply is made gives the supplier, not later than the time of the supply, a certificate <sup>F117</sup>... that he will cause paragraph (c)(ii) to be satisfied; and
  - (e) the supply is not a retail transaction.

[ A certificate under subsection <sup>F119</sup>... (2)(d) must be in such form as may be specified <sup>F118</sup>(2A) by regulations or by the Commissioners in accordance with regulations.]

- (3) The <sup>F120</sup>... supply in question shall be treated for the purposes of this Act as taking place outside the United Kingdom if any subsequent supply of those goods is while they are subject to the fiscal warehousing regime.
- (4) Where subsection (3) does not apply and the <sup>F121</sup>... supply in question falls, for the purposes of this Act, to be treated as taking place in the United Kingdom, that <sup>F121</sup>... supply shall be treated for the purposes of this Act as taking place when the goods are removed from the fiscal warehousing regime.

[<sup>F122</sup>(5) VAT is chargeable on a supply made by a person who is not a taxable person, but who would be were it not for paragraph 1(9) of Schedule 1, where—

- (a) subsection (4) applies to that supply, and
- (b) that supply is taxable and not zero-rated.]

[<sup>F123</sup>(6) In this section “eligible goods” means goods—

- (a) of a description falling within Schedule 5A,
- (b) in the case of imported goods—

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- (i) upon which any import duty has been paid or deferred (by virtue of the customs and excise Acts or any subordinate legislation made under those Acts), and
  - (ii) upon which any VAT chargeable under section 1(1)(c) has been paid, or deferred (by virtue of the customs and excise Acts or any subordinate legislation made under those Acts), and
  - (c) in the case of goods subject to a duty of excise, upon which any excise duty has been paid or deferred under section 127A of the Management Act.]
- (7) For the purposes of this section, apart from subsection (4), [<sup>F124</sup>a supply] shall be treated as taking place at the material time for [<sup>F125</sup>the supply].
- (8) The Treasury may by order vary Schedule 5A by adding to or deleting from it any goods or varying any description of any goods.]

#### Textual Amendments

- F114** S. 18B inserted (29.4.1996 for certain purposes and 1.6.1996 otherwise with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**
- F115** S. 18B(1) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F116** Word in s. 18B(2) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F117** Words in s. 18B(2)(d) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), **Sch. 29 para. 2(3)**
- F118** S. 18B(2A) inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 29 para. 2(4)**
- F119** Words in s. 18B(2A) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F120** Words in s. 18B(3) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F121** Words in s. 18B(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(6)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F122** S. 18B(5) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F123** S. 18B(6) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(8)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F124** Words in s. 18B(7) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(9)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I.

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2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**F125** Words in s. 18B(7) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 18(9)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**Modifications etc. (not altering text)**

**C20** S. 18B(4) excluded (31.12.2020) by The Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/513), regs. 1, **9(2)**; S.I. 2020/1641, reg. 2, Sch.

[<sup>F126</sup>**18C Warehouses and fiscal warehouses: services.**

(1) Where—

- (a) a taxable person makes a supply of specified services;
  - (b) those services are wholly performed on or in relation to goods while those goods are subject to a warehousing or fiscal warehousing regime;
  - (c) (except where the services are the supply by an occupier of a warehouse or a fiscal warehousekeeper of warehousing or fiscally warehousing the goods) the person to whom the supply is made gives the supplier a certificate <sup>F127</sup>... that the services are so performed;
  - (d) the supply of services would (apart from this section) be taxable and not zero-rated; and
  - (e) the supplier issues to the person to whom the supply is made an invoice of such a description as the Commissioners may by regulations prescribe,
- his supply shall be zero-rated.

[ A certificate under subsection (1)(c) must be in such form as may be specified by <sup>F128</sup>(1A) regulations or by the Commissioners in accordance with regulations.]

(2) If a supply of services is zero-rated under subsection (1) above (“the zero-rated supply of services”) then, unless there is a supply of the goods in question the material time for which is—

- (a) while the goods are subject to a warehousing or fiscal warehousing regime, and
  - (b) after the material time for the zero-rated supply of services,
- subsection (3) below shall apply.

(3) Where this subsection applies—

- (a) a supply of services identical to the zero-rated supply of services shall be treated for the purposes of this Act as being, at the time the goods are removed from the warehousing or fiscal warehousing regime or (if earlier) at the duty point, both made (for the purposes of his business) to the person to whom the zero-rated supply of services was actually made and made by him in the course or furtherance of his business,
- (b) that supply shall have the same value as the zero-rated supply of services,
- (c) that supply shall be a taxable (and not a zero-rated) supply, and
- (d) VAT shall be charged on that supply even if the person treated as making it is not a taxable person.

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- (4) In this section “specified services” means—
- (a) services of an occupier of a warehouse or a fiscal warehousekeeper of keeping the goods in question in a warehousing or fiscal warehousing regime;
  - (b) in relation to goods subject to a warehousing regime, services of carrying out on the goods operations which are permitted to be carried out under [<sup>F129</sup>the customs and excise Acts or any subordinate legislation made under those Acts] as the case may be; and
  - (c) in relation to goods subject to a fiscal warehousing regime, services of carrying out on the goods any physical operations (other than any prohibited by regulations made under section 18F), for example, and without prejudice to the generality of the foregoing words, preservation and repacking operations.]

#### Textual Amendments

- F126** S. 18C inserted (29.4.1996 for certain purposes and 1.6.1996 otherwise with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 5; S.I. 1996/1249, art. 2
- F127** Words in s. 18C(1)(c) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 29 para. 3(2)
- F128** S. 18C(1A) inserted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 29 para. 3(3)
- F129** Words in s. 18C(4)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 19 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### [<sup>F130</sup>18D Removal from warehousing: accountability.

- (1) This section applies to any supply to which section 18B(4) or section 18C(3) applies (supply treated as taking place on removal or duty point) <sup>F131</sup>....
- (2) Any VAT payable on the supply <sup>F132</sup>... shall (subject to any regulations under subsection (3) below) be paid—
  - (a) at the time when the supply <sup>F133</sup>... is treated as taking place under the section in question; and
  - (b) by the person by whom the goods are removed or, as the case may be, together with the excise duty, by the person who is required to pay that duty.
- (3) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of subsection (2) above at a time later than that provided by that subsection; and they may make different provisions for different descriptions of taxable persons and for different descriptions of goods and services.]

#### Textual Amendments

- F130** S. 18D inserted (29.4.1996 for specified purposes otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 5; S.I. 1996/1249, art. 2
- F131** Words in s. 18D(1) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 20(2) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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- F132** Words in s. 18D(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 20\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F133** Words in s. 18D(2)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 20\(3\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### [<sup>F134</sup>18E Deficiency in fiscally warehoused goods.

- (1) This section applies where goods have been subject to a fiscal warehousing regime and, before being lawfully removed from the fiscal warehouse, they are found to be missing or deficient.
- (2) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may require the fiscal warehousekeeper to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as they see fit, the VAT that would have been chargeable.
- (3) In subsection (2) “VAT that would have been chargeable” means VAT that would have been chargeable on a supply of the missing goods, or the amount of goods by which the goods are deficient, taking place at the time immediately before the absence arose or the deficiency occurred, if the value of that supply were the open market value; but where that time cannot be ascertained to the Commissioners’ satisfaction, that VAT shall be the greater of the amounts of VAT which would have been chargeable on a supply of those goods—
  - (a) if the value of that supply were the highest open market value during the period (the relevant period) commencing when the goods were placed in the fiscal warehousing regime and ending when the absence or deficiency came to the notice of the Commissioners, or
  - (b) if the rate of VAT chargeable on that supply were the highest rate chargeable on a supply of such goods during the relevant period and the value of that supply were the highest open market value while that rate prevailed.
- (4) This section has effect without prejudice to any penalty incurred under any other provision of this Act or regulations made under it.]

#### Textual Amendments

- F134** S. 18E inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8, ss. 25, 26](#), [Sch. 3 para. 5](#); S.I. 1996/1249, [art. 2](#)

### [<sup>F135</sup>18F Sections 18A to 18E: supplementary.

- (1) In sections 18A to 18E and this section—
  - [<sup>F136</sup>“the customs and excise Acts” has the same meaning as in the Management Act;]
  - “duty point” has the meaning given by section 18(6);



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“eligible goods” has the meaning given by section 18B(6);

“fiscal warehouse” means a place notified to the Commissioners under section 18A(3) and from which such status has not been withdrawn;

“fiscal warehousekeeper” means a person approved under section 18A(1);

“material time”—

- (a) in relation to any <sup>F137</sup>... supply the time of which is determined in accordance with regulations under section 6(14) <sup>F137</sup>..., means such time as may be prescribed for the purpose of this section by those regulations;
- (b) <sup>F138</sup> ...
- (c) in relation to any other supply of goods, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted; and
- (d) in relation to any other supply of services, means the time when the services are performed;

“warehouse”, except in the expression “fiscal warehouse”, has the meaning given by section 18(6);

<sup>F139</sup> ...

- (2) Any reference in sections 18A to 18E or this section to goods being subject to a fiscal warehousing regime is, subject to any regulations made under subsection (8)(e) below, a reference to eligible goods being kept in a fiscal warehouse or being transferred between fiscal warehouses in accordance with such regulations; and any reference to the removal of goods from a fiscal warehousing regime shall be construed accordingly.
- (3) Subject to subsection (2) above, any reference in sections 18C and 18D to goods being subject to a warehousing regime or to the removal of goods from a warehousing regime shall have the same meaning as in section 18(7).
- (4) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they change their nature but the resulting goods are also eligible goods, the provisions of sections 18B to 18E and this section shall apply as if the resulting goods were the original goods.
- (5) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they cease to be eligible goods, on their ceasing to be so sections 18B to 18E shall apply as if they had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.
- (6) Where—
  - (a) any person ceases to be a fiscal warehousekeeper; or
  - (b) any premises cease to have fiscal warehouse status,sections 18B to 18E and this section shall apply as if the goods of which he is the fiscal warehousekeeper, or the goods in the fiscal warehouse, as the case may be, had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.
- (7) The Commissioners may make regulations governing the deposit, keeping, securing and treatment of goods in a fiscal warehouse, and the removal of goods from a fiscal warehouse.

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- (8) Regulations may, without prejudice to the generality of subsection (7) above, include provisions—
- (a) in relation to—
    - (i) goods which are, have been or are to be subject to a fiscal warehousing regime,
    - (ii) other goods which are, have been or are to be kept in fiscal warehouses,
    - (iii) fiscal warehouse premises, and
    - (iv) fiscal warehousekeepers and their businesses,
 as to the keeping, preservation and production of records and the furnishing of returns and information by fiscal warehousekeepers and any other persons;
  - (b) requiring goods deposited in a fiscal warehouse to be produced to or made available for inspection by an authorised person on request by him;
  - (c) prohibiting the carrying out on fiscally warehoused goods of such operations as they may prescribe;
  - (d) regulating the transfer of goods from one fiscal warehouse to another;
  - (e) concerning goods which, though kept in a fiscal warehouse, are not eligible goods or are not intended by a relevant person to be goods in respect of which reliefs are to be enjoyed under sections 18A to 18E and this section;
  - (f) prohibiting the fiscal warehousekeeper from allowing goods to be removed from the fiscal warehousing regime without payment of any VAT payable under section 18D on or by reference to that removal and, if in breach of that prohibition he allows goods to be so removed, making him liable for the VAT jointly and severally with the remover,
- and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient.
- (9) Regulations may make different provision for different cases, including different provision for different fiscal warehousekeepers or descriptions of fiscal warehousekeeper, for fiscal warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.]

### Textual Amendments

- F135** S. 18F inserted (29.4.1996 for specified purposes otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**
- F136** Words in s. 18F(1) inserted (31.12.2020) by **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 21(a)** (with **Sch. 8 para. 99**) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F137** Words in s. 18F(1) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 21(b)(i)** (with **Sch. 8 para. 99**) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F138** Words in s. 18F(1) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 21(b)(ii)** (with **Sch. 8 para. 99**) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

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**F139** Words in s. 18F(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 21\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

### *Determination of value*

## **19 Value of supply of goods or services.**

- (1) For the purposes of this Act the value of any supply of goods or services shall, except as otherwise provided by or under this Act, be determined in accordance with this section and Schedule 6, and for those purposes subsections (2) to (4) below have effect subject to that Schedule.
- (2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the VAT chargeable, is equal to the consideration.
- (3) If the supply is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as, with the addition of the VAT chargeable, is equivalent to the consideration.
- (4) Where a supply of any goods or services is not the only matter to which a consideration in money relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.
- (5) For the purposes of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) above if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

#### **Modifications etc. (not altering text)**

**C21** S. 19(5) modified (20.10.1995) by [S.I. 1995/2518](#), [reg. 77](#)

## **<sup>F140</sup>20 Valuation of acquisitions from other member States.**

.....

#### **Textual Amendments**

**F140** S. 20 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 22](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

## **21 Value of imported goods.**

- [<sup>F141</sup>(1) For the purposes of this Act, the value of imported goods is (subject to subsections (2) to (4)) their value as if determined under TCTA 2018 for the purposes of import duty (whether or not the goods are subject to import duty).]

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(2) For the purposes of this Act the value of any goods imported <sup>F142</sup>... shall [<sup>F143</sup>(subject to subsection (2A) below)] be taken to include the following so far as they are not already included in that value in accordance with the rules mentioned in subsection (1) above, that is to say—

- (a) all taxes, duties and other charges levied either outside or, by reason of importation, within the United Kingdom (except VAT); <sup>F144</sup>...
- [<sup>F145</sup>(b) all incidental expenses, such as commission, packing, transport and insurance costs, up to the goods' first destination in the United Kingdom; and
- (c) if at the time of the importation of the goods <sup>F146</sup>... a further destination for the goods is known, and that destination is within the United Kingdom <sup>F146</sup>..., all such incidental expenses in so far as they result from the transport of the goods to that other destination;

and in this subsection “the goods' first destination” means the place mentioned on the consignment note or any other document by means of which the goods are imported into the United Kingdom, or in the absence of such documentation it means the place of the first transfer of cargo in the United Kingdom.]

[<sup>F147</sup>(2A) Where—

- (a) any goods falling within subsection (5) below are sold by auction at a time when they are subject to [<sup>F148</sup>the temporary admission procedure under Part 1 of TCTA 2018], and
- (b) arrangements made by or on behalf of the purchaser of the goods following the sale by auction result in the importation of the goods <sup>F149</sup>...,

the value of the goods shall not be taken for the purposes of this Act to include, in relation to that importation, any commission or premium payable to the auctioneer in connection with the sale of the goods.]

<sup>F150</sup>(2B) .....

(3) Subject to subsection (2) above, where—

- (a) goods are imported <sup>F151</sup>... for a consideration which is or includes a price in money payable as on the transfer of property;
- (b) the terms on which those goods are so imported allow a discount for prompt payment of that price;
- (c) those terms do not include provision for payment of that price by instalments; and
- (d) payment of that price is made in accordance with those terms so that the discount falls to be allowed,

the value of the goods shall be taken for the purposes of this Act to be reduced by the amount of the discount.

[<sup>F152</sup>(4) [<sup>F153</sup>Subject to subsection (6D) below,] For the purposes of this Act, the value of any goods falling within subsection (5) below which are imported <sup>F154</sup>... shall be taken to be an amount equal to [<sup>F155</sup>25 per cent] of the amount which, apart from this subsection, would be their value for those purposes.

<sup>F156</sup>[ The goods that fall within this subsection are—

- (5) (a) any work of art;
- (b) any antique, not falling within paragraph (a) above or (c) below, that is more than one hundred years old;

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- (c) any collection or collector's piece that is of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic, numismatic or philatelic interest.
- (6) In this section “work of art” means, subject to subsections (6A) and (6B) below—
- (a) any mounted or unmounted painting, drawing, collage, decorative plaque or similar picture that was executed by hand;
  - (b) any original engraving, lithograph or other print which—
    - (i) was produced from one or more plates executed by hand by an individual who executed them without using any mechanical or photomechanical process; and
    - (ii) either is the only one produced from the plate or plates or is comprised in a limited edition;
  - (c) any original sculpture or statuary, in any material;
  - (d) any sculpture cast which—
    - (i) was produced by or under the supervision of the individual who made the mould or became entitled to it by succession on the death of that individual; and
    - (ii) either is the only cast produced from the mould or is comprised in a limited edition;
  - (e) any tapestry or other hanging which—
    - (i) was made by hand from an original design; and
    - (ii) either is the only one made from the design or is comprised in a limited edition;
  - (f) any ceramic executed by an individual and signed by him;
  - (g) any enamel on copper which—
    - (i) was executed by hand;
    - (ii) is signed either by the person who executed it or by someone on behalf of the studio where it was executed;
    - (iii) either is the only one made from the design in question or is comprised in a limited edition; and
    - (iv) is not comprised in an article of jewellery or an article of a kind produced by goldsmiths or silversmiths;
  - (h) any mounted or unmounted photograph which—
    - (i) was printed by or under the supervision of the photographer;
    - (ii) is signed by him; and
    - (iii) either is the only print made from the exposure in question or is comprised in a limited edition;
- (6A) The following do not fall within subsection (5) above by virtue of subsection (6)(a) above, that is to say—
- (a) any technical drawing, map or plan;
  - (b) any picture comprised in a manufactured article that has been hand-decorated; or
  - (c) anything in the nature of scenery, including a backcloth.
- (6B) An item comprised in a limited edition shall be taken to be so comprised for the purposes of subsection (6)(d) to (h) above only if—
- (a) in the case of sculpture casts—

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- (i) the edition is limited so that the number produced from the same mould does not exceed eight; or
  - (ii) the edition comprises a limited edition of nine or more casts made before 1st January 1989 which the Commissioners have directed should be treated, in the exceptional circumstances of the case, as a limited edition for the purposes of subsection (6)(d) above;
  - (b) in the case of tapestries and hangings, the edition is limited so that the number produced from the same design does not exceed eight;
  - (c) in the case of enamels on copper—
    - (i) the edition is limited so that the number produced from the same design does not exceed eight; and
    - (ii) each of the enamels in the edition is numbered and is signed as mentioned in subsection (6)(g)(ii) above;
  - (d) in the case of photographs—
    - (i) the edition is limited so that the number produced from the same exposure does not exceed thirty; and
    - (ii) each of the prints in the edition is numbered and is signed as mentioned in subsection (6)(h)(ii) above.
- (6C) For the purposes of this section a collector's piece is of philatelic interest if—
- (a) it is a postage or revenue stamp, a postmark, a first-day cover or an item of pre-stamped stationery; and
  - (b) it is franked or (if unfranked) it is not legal tender and is not intended for use as such.
- (6D) Subsection (4) above does not apply in the case of [<sup>F157</sup>imported goods] if—
- (a) the whole of the VAT chargeable on their importation falls to be relieved by virtue of an order under section 37(1); or
  - (b) they were exported from the United Kingdom during the period of twelve months ending with the date of their importation [<sup>F158</sup>in circumstances where the exportation and subsequent importation were effected to obtain the benefit of that subsection].]
- (7) An order under section 2(2) may contain provision making such alteration of the percentage for the time being specified in subsection (4) above as the Treasury consider appropriate in consequence of any increase or decrease by that order of the rate of VAT.]

#### Textual Amendments

- F141** S. 21(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 23\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F142** Words in s. 21(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 23\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F143** Words in s. 21(2) inserted (1.9.2006) by [Finance Act 2006 \(c. 25\)](#), s. [18\(2\)\(4\)](#); S.I. 2006/2149, art. 2
- F144** Word in s. 21(2)(a) repealed (29.4.1996 with effect in relation to goods imported on or after 1.1.1996) by 1996 c. 8, ss. [27\(2\)\(4\)](#), 205, [Sch. 41 Pt. IV\(3\)](#) Note

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- F145** S. 21(2)(b)(c) substituted (29.4.1996 with effect in relation to goods imported on or after 1.1.1996) for s. 21(2)(b) by 1996 c. 8, s. 27(3)(4)
- F146** Words in s. 21(2)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 23(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F147** S. 21(2A)(2B) inserted (1.9.2006) by Finance Act 2006 (c. 25), s. 18(3)(4); S.I. 2006/2149, art. 2
- F148** Words in s. 21(2A)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 23(4)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F149** Words in s. 21(2A)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 23(4)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F150** S. 21(2B) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 23(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F151** Words in s. 21(3)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 23(6)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F152** S. 21(4)-(7) inserted (1.5.1995 with effect as mentioned in s. 22(2) of the amending Act) by 1995 c. 4, s. 22(1)
- F153** Words in s.21(4) inserted (27.7.1999 with effect as mentioned in s. 12(3) of the amending Act) by 1999 c. 16, s. 12(1)(a)
- F154** Words in s. 21(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 23(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F155** Words in s. 21(4) substituted (27.7.2010) by Finance (No. 2) Act 2010 (c. 31), s. 3(2)
- F156** S. 21(5)-(6D) substituted (27.7.1999 with effect as mentioned in s. 12(3) of the amending Act) for s. 21(5)(6) by 1999 c. 16, s. 12(2)
- F157** Words in s. 21(6D) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 23(8)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F158** Words in s. 21(6D)(b) inserted (with effect in accordance with art. 17(2) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), arts. 1(1), **17(1)**

**F159** 22 .....

#### Textual Amendments

- F159** S. 22 repealed (29.4.1996 with application in relation to supplies made on or after 1.1.1996) by 1996 c. 8, ss. 28, 205, **Sch. 41 Pt. IV(2)**

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## **[<sup>F160</sup>23 Value of supplies involving relevant machine games**

- (1) If a person plays a relevant machine game, then for the purposes of VAT the amount paid by the person is to be treated as consideration for a supply of services to that person.
- (2) “Relevant machine game” is defined in section 23A.
- (3) The value to be taken as the value of supplies made by a person (“the supplier”) in the circumstances mentioned in subsection (1) in any period is to be determined as if the consideration for the supplies were reduced by an amount equal to X.
- (4) X is the amount (if any) paid out in that period by way of winnings in respect of relevant machine games made available by the supplier (whether the games were played in the same period or an earlier one).
- (5) X does not include any winnings paid out to the supplier or a person acting on the supplier's behalf.
- (6) Inserting a token into a machine on which a relevant machine game is played is to be treated for the purposes of subsection (1) as the payment of an amount equal to that for which the token can be obtained.
- (7) Providing a specified kind of token by way of winnings is to be treated for the purposes of subsection (4) as the payment out of an amount by way of winnings equal to the value of the token.
- (8) A specified kind of token is—
  - (a) a token that can be inserted into the same machine to enable games to be played on the machine, or
  - (b) a token that is not of such a kind but can be exchanged for money.
- (9) The value of a specified kind of token is—
  - (a) for a token within subsection (8)(a), an amount equal to that for which the token can be obtained, and
  - (b) for a token within subsection (8)(b), an amount equal to that for which the token can be exchanged.
- (10) If it is not reasonably practicable to attribute payments and winnings to relevant machine games or to apportion them between relevant machine games and other games or other activities, any attribution or apportionment is to be done on a just and reasonable basis.
- (11) For the purposes of this section, a person plays a game if the person participates in the game—
  - (a) whether or not there are other participants in the game, and
  - (b) whether or not a computer generates images or data taken to represent the actions of other participants in the game.

### **Textual Amendments**

**F160** Ss. 23, 23A substituted for s. 23 (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 63](#)



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### 23A Meaning of “relevant machine game”

- (1) A “relevant machine game” is a game (whether of skill or chance or both) that—
  - (a) is played on a machine for a prize, and
  - (b) is not excluded by subsection (2).
- (2) A game is excluded by this subsection if—
  - (a) takings and payouts in respect of it are taken into account in determining any charge to machine games duty,
  - (b) it involves betting on future real events,
  - (c) bingo duty is charged on the playing of it or would be so charged but for paragraphs 1 to 5 of Schedule 3 to the Betting and Gaming Duties Act 1981 (exemptions from bingo duty),
  - (d) lottery duty is charged on the taking of a ticket or chance in it or would be so charged but for an express exception,
  - (e) it is a real game of chance and playing it amounts to dutiable gaming for the purposes of section 10 of the Finance Act 1997 or would do so but for subsection (3), (3B) or (4) of that section, or
  - (f) playing it amounts to remote gaming within the meaning of [<sup>F161</sup>section 154(1) of the Finance Act 2014 (meaning of remote gaming)].
- (3) In this section—
  - “game” does not include a sport;
  - “machine” means any apparatus that uses or applies mechanical power, electrical power or both;
  - “prize”, in relation to a game, does not include the opportunity to play the game again;
  - “real game of chance” means a game of chance (within the meaning of [<sup>F162</sup>Part 3 of the Finance Act 2014 (see section 188(1)(b))]) that is non-virtual.
- (4) The Treasury may by order amend this section.]

#### Textual Amendments

- F160** Ss. 23, 23A substituted for s. 23 (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 63](#)
- F161** Words in s. 23A(2)(f) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 19\(2\)](#) (with [Sch. 29](#))
- F162** Words in s. 23A(3) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 19\(3\)](#) (with [Sch. 29](#))

### *Payment of VAT by taxable persons*

## 24 Input tax and output tax.

- (1) Subject to the following provisions of this section, “input tax”, in relation to a taxable person, means the following tax, that is to say—
  - (a) VAT on the supply to him of any goods or services;
  - (b) <sup>F163</sup>...; and
  - (c) VAT paid or payable by him on the importation of any goods <sup>F164</sup>...

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being (in each case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him.

(2) Subject to the following provisions of this section, “output tax”, in relation to a taxable person, means VAT on supplies which he makes <sup>F165</sup>....

<sup>F166</sup>(3) .....

(4) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the order, be treated for the purposes of subsections (1) and (2) above as supplied to such other person as may be determined in accordance with the order.

(5) Where goods or services supplied to a taxable person <sup>F167</sup>... or goods imported by a taxable person <sup>F168</sup>... are used or to be used partly for the purposes of a business carried on or to be carried on by him and partly for other purposes <sup>F169</sup>—

- (a) VAT on supplies <sup>F170</sup>... and importations shall be apportioned so that so much as is referable to the taxable person's business purposes is counted as that person's input tax, and
- (b) the remainder of that VAT (“the non-business VAT”) shall count as that person's input tax only to the extent (if any) provided for by regulations under subsection (6)(e).]

<sup>F171</sup>(5A) For the purposes of subsections (1) and (5), a relevant asset held for the purposes of a business carried on or to be carried on by a taxable person is not, in any circumstances, to be regarded as used or to be used for the purposes of the business if, and to the extent that, it is used or to be used for that person's private use or the private use of that person's staff.

(5B) In subsection (5A) “relevant asset” means—

- (a) any interest in land,
- (b) any building or part of a building,
- (c) any civil engineering work or part of such a work,
- (d) any goods incorporated or to be incorporated in a building or civil engineering work (whether by being installed as fixtures or fittings or otherwise),
- (e) any ship, boat or other vessel, or
- (f) any aircraft.]

(6) Regulations may provide—

- (a) for VAT on the supply of goods or services to a taxable person <sup>F172</sup>... and VAT paid or payable by a taxable person on the importation of goods <sup>F173</sup>... to be treated as his input tax only if and to the extent that the charge to VAT is evidenced and quantified by reference to such documents <sup>F174</sup> or other information] as may be specified in the regulations or the Commissioners may direct either generally or in particular cases or classes of cases;
- (b) for a taxable person to count as his input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, VAT on the supply to him of goods or services <sup>F175</sup>... or paid by him on the importation of goods <sup>F176</sup>... notwithstanding that he was not a taxable person at the time of the supply <sup>F177</sup>... or payment;
- (c) for a taxable person that is a body corporate to count as its input tax, in such circumstances, to such extent and subject to such conditions as may

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be prescribed, VAT on the supply<sup>F178</sup>... or importation of goods before the company's incorporation for appropriation to the company or its business or on the supply of services before that time for its benefit or in connection with its incorporation;

(d) in the case of a person who has been, but is no longer, a taxable person, for him to be paid by the Commissioners the amount of any VAT on a supply of services made to him for the purposes of the business carried on by him when he was a taxable person.

[<sup>F179</sup>(e) in cases where an apportionment is made under subsection (5), for the non-business VAT to be counted as the taxable person's input tax for the purposes of any provision made by or under section 26 in such circumstances, to such extent and subject to such conditions as may be prescribed.]

[<sup>F180</sup>(6A) Regulations under subsection (6) may contain such supplementary, incidental, consequential and transitional provisions as appear to the Commissioners to be necessary or expedient.]

<sup>F181</sup>(7) .....

#### Textual Amendments

- F163** S. 24(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 24\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F164** Words in s. 24(1)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 24\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F165** Words in s. 24(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 24\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F166** S. 24(3) omitted (with application in accordance with [Sch. 8 para. 1\(8\)\(9\)](#) of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 8 para. 1\(2\)\(8\)](#)
- F167** Words in s. 24(5) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 24\(4\)\(a\)\(i\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F168** Words in s. 24(5) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 24\(4\)\(a\)\(ii\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F169** Words in s. 24(5) substituted (16.12.2010) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 8 para. 1\(3\)](#)
- F170** Words in s. 24(5)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 24\(4\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F171** S. 24(5A)(5B) inserted (with application in accordance with [Sch. 8 para. 1\(8\)\(9\)](#) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 8 para. 1\(4\)\(8\)](#)
- F172** Words in s. 24(6)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 24\(5\)\(a\)\(i\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I.

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- 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F173** Words in s. 24(6)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 24(5)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F174** Words in s. 24(6)(a) inserted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), **s. 17(2)(8)**
- F175** Words in s. 24(6)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 24(5)(b)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F176** Words in s. 24(6)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 24(5)(b)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F177** Word in s. 24(6)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 24(5)(b)(iii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F178** Word in s. 24(6)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 24(6)(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F179** S. 24(6)(e) inserted (16.12.2010) by Finance (No. 3) Act 2010 (c. 33), **Sch. 8 para. 1(5)**
- F180** S. 24(6A) inserted (16.12.2010) by Finance (No. 3) Act 2010 (c. 33), **Sch. 8 para. 1(6)**
- F181** S. 24(7) omitted (with application in accordance with Sch. 8 para. 1(8)(9) of the amending Act) by virtue of Finance (No. 3) Act 2010 (c. 33), **Sch. 8 para. 1(7)(8)**

**25 Payment by reference to accounting periods and credit for input tax against output tax.**

- (1) A taxable person shall—
- (a) in respect of supplies made by him, <sup>F182</sup>...
- <sup>F182</sup>(b) .....  
 account for and pay VAT by reference to such periods (in this Act referred to as “prescribed accounting periods”) at such time and in such manner as may be determined by or under regulations and regulations may make different provision for different circumstances.
- (2) Subject to the provisions of this section, he is entitled at the end of each prescribed accounting period to credit for so much of his input tax as is allowable under section 26, and then to deduct that amount from any output tax that is due from him.
- (3) If either no output tax is due at the end of the period, or the amount of the credit exceeds that of the output tax then, subject to subsections (4) and (5) below, the amount of the credit or, as the case may be, the amount of the excess shall be paid to the taxable person by the Commissioners; and an amount which is due under this subsection is referred to in this Act as a “VAT credit”.
- (4) The whole or any part of the credit may, subject to and in accordance with regulations, be held over to be credited in and for a subsequent period; and the regulations may allow for it to be so held over either on the taxable person’s own application or in

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accordance with general or special directions given by the Commissioners from time to time.

- (5) Where at the end of any period a VAT credit is due to a taxable person who has failed to submit returns for any earlier period as required by this Act, the Commissioners may withhold payment of the credit until he has complied with that requirement.
- (6) A deduction under subsection (2) above and payment of a VAT credit shall not be made or paid except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment of a VAT credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances.
- (7) The Treasury may by order provide, in relation to such supplies<sup>F183</sup> ... and importations as the order may specify, that VAT charged on them is to be excluded from any credit under this section; and—
  - (a) any such provision may be framed by reference to the description of goods or services supplied or goods<sup>F184</sup> ... imported, the person by whom they are supplied<sup>F184</sup> ... or imported or to whom they are supplied, the purposes for which they are supplied<sup>F184</sup> ... or imported, or any circumstances whatsoever; and
  - (b) such an order may contain provision for consequential relief from output tax.

#### Textual Amendments

**F182** S. 25(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 25\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

**F183** Word in s. 25(7) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 25\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

**F184** Words in s. 25(7)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 25\(3\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

#### Modifications etc. (not altering text)

**C22** S. 25(6) modified (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\)](#), s. [121\(2\)\(4\)](#)

## 26 Input tax allowable under section 25.

- (1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period (that is input tax on supplies<sup>F185</sup> ... and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2) below.
- (2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business—
  - (a) taxable supplies;

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- (b) supplies outside the United Kingdom which would be taxable supplies if made in the United Kingdom;
  - (c) such other supplies outside the United Kingdom and such exempt supplies as the Treasury may by order specify for the purposes of this subsection.
- (3) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to supplies within subsection (2) above, and any such regulations may provide for—
- (a) determining a proportion by reference to which input tax for any prescribed accounting period is to be provisionally attributed to those supplies;
  - (b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising two or more prescribed accounting periods or parts thereof, the provisional attribution for any of those periods;
  - (c) the making of payments in respect of input tax, by the Commissioners to a taxable person (or a person who has been a taxable person) or by a taxable person (or a person who has been a taxable person) to the Commissioners, in cases where events prove inaccurate an estimate on the basis of which an attribution was made; and
  - (d) preventing input tax on a supply which, under or by virtue of any provision of this Act, a person makes to himself from being allowable as attributable to that supply.
- (4) Regulations under subsection (3) above may make different provision for different circumstances and, in particular (but without prejudice to the generality of that subsection) for different descriptions of goods or services; and may contain such incidental<sup>F186</sup>, supplementary, consequential and transitional] provisions as appear to the Commissioners necessary or expedient.

#### Textual Amendments

**F185** Word in s. 26(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 26](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

**F186** Words in s. 26(4) substituted (16.12.2010) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 8 para. 2](#)

#### Modifications etc. (not altering text)

**C23** S. 26 excluded (27.7.1999) by [1999 c. 16](#), [s. 13\(1\)](#)

### <sup>F187</sup>26A Disallowance of input tax where consideration not paid

- (1) Where—
- (a) a person has become entitled to credit for any input tax, and
  - (b) the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,
- he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.

[ Subsection (1) is subject to section 26AA (disapplication of disallowance under <sup>F188</sup>(1A) section 26A in insolvency).]

*Status: Point in time view as at 26/07/2021.*

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- (2) For the purposes of subsection (1) above “the relevant date”, in relation to any sum representing consideration for a supply, is—
  - (a) the date of the supply, or
  - (b) if later, the date on which the sum became payable.
- (3) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (4) Regulations under this section may in particular—
  - (a) make provision for restoring the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period mentioned in subsection (1) above;
  - (b) make rules for ascertaining whether anything paid is to be taken as paid by way of consideration for a particular supply;
  - (c) make rules dealing with particular cases, such as those involving payment of part of the consideration or mutual debts.
- (5) Regulations under this section may make different provision for different circumstances.
- (6) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.]

#### Textual Amendments

**F187** S. 26A inserted (with effect as mentioned in s. 22(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 22\(1\)](#); [S.I. 2002/3028, art. 2](#)

**F188** S. 26A(1A) inserted (with effect in accordance with art. 9 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2017 \(S.I. 2017/495\), arts. 1, 7\(2\)](#)

#### [<sup>F189</sup>26A] Disapplication of disallowance under section 26A in insolvency

- (1) Section 26A(1) does not apply to a person in relation to credit for input tax which relates to a supply where—
  - (a) at the time of the supply, no insolvency procedure had effect in relation to the person,
  - (b) at any time during the relevant period, an insolvency procedure had effect in relation to that person (“the insolvent person”), and
  - (c) the Commissioners have been notified in writing of the matter mentioned in paragraph (b) by or on behalf of a person authorised to deal with the insolvent person’s affairs.
- (2) But where the insolvency procedure mentioned in subsection (1)(b) is a bankruptcy order, award of sequestration, protected trust deed or voluntary arrangement and that bankruptcy order is annulled, that award of sequestration is recalled or that protected trust deed or voluntary arrangement has come to an end prematurely—
  - (a) the disapplication of section 26A(1) by subsection (1) above ceases to have effect, and
  - (b) the person to which the bankruptcy order, award of sequestration, protected trust deed or voluntary arrangement relates is to be taken for the purposes of

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section 26A(1) as not being entitled to the credit for the input tax concerned as from whichever is the later of—

- (i) the end of the relevant period, and
  - (ii) the date on which the bankruptcy order was annulled, the award of sequestration recalled or the protected trust deed or voluntary arrangement has come to an end prematurely.
- (3) Where the person mentioned in section 26A(1) is entitled as a member of a partnership to credit for input tax this section has effect as if—
- (a) the references in subsections (1)(a) and (b) to “the person” and “that person” were references to the partnership,
  - (b) the reference in subsection (1)(c) to “the insolvent person’s affairs” were a reference to the insolvent partnership’s affairs, and
  - (c) the reference in subsection (2)(b) to “the person”, in connection with a bankruptcy order or a voluntary arrangement, were a reference to the person who is a member of the partnership to which the bankruptcy order or voluntary arrangement relates.
- (4) Subsection (1) does not apply where the insolvency procedure referred to in subsection (1)(b) has effect as part of, or as a consequence of, arrangements where the main purpose, or one of the main purposes, of those arrangements is to obtain a tax advantage by the operation of this section.
- (5) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (6) For the purposes of this section “the relevant period”, in relation to a supply, is the period beginning immediately after the supply took place and ending six months after—
- (a) the date of that supply, or
  - (b) if later, the date on which the relevant part of the consideration for the supply is payable.
- (7) For the purposes of subsection (6) the relevant part of the consideration is the part of the consideration referable to the credit for input tax which would (ignoring the effect of this section) be disallowed under section 26A(1).
- (8) For the purposes of this section an insolvency procedure has effect in relation to a person at a time when any of the following apply—
- (a) a bankruptcy order has been made under Chapter 1 of Part 9 of the Insolvency Act 1986 in relation to that person and has not been annulled,
  - (b) a warrant has been granted for a petition for sequestration to be served on that person which has resulted in the sequestration of that person’s estate or an award of sequestration has been made on an application by that person, in both cases under section 22 of the Bankruptcy (Scotland) Act 2016, and in either case the award of sequestration has not been recalled,
  - (c) a bankruptcy order has been made under Chapter 1 of Part 9 of the Insolvency (Northern Ireland) Order 1989 in relation to that person and has not been annulled,
  - (d) where that person is a company registered under the Companies Act 2006 in England and Wales or Scotland or an unregistered company as defined in section 220 of the Insolvency Act 1986 which is deemed to be registered in



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- England and Wales or Scotland under section 221 of that Act, a petition has been presented to the court which has resulted in a winding-up order being made under Chapter 6 of Part 4 or Part 5 of the Insolvency Act 1986 in relation to that person and that person has not been dissolved or that winding-up order has not been stayed or sisted,
- (e) where that person is a company registered under the Companies Act 2006 in Northern Ireland, or an unregistered company as defined in article 184 of the Insolvency (Northern Ireland) Order 1989 which is deemed to be registered in Northern Ireland under article 185 of that Order, a petition has been presented to the court which has resulted in a winding-up order being made under Part 5 or Part 6 of the Insolvency (Northern Ireland) Order 1989 and that person has not been dissolved or that winding-up order has not been stayed,
  - (f) that person is in administration for the purposes of Schedule B1 to the Insolvency Act 1986 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989,
  - (g) an appointment of an administrative receiver is in force in relation to that person disregarding any temporary vacancy in the office of receiver,
  - (h) an appointment of a liquidator is in force as a consequence of a creditors' voluntary winding up under Chapter 4 of Part 4 of the Insolvency Act 1986 or Chapter 4 of Part 5 of the Insolvency (Northern Ireland) Order 1989 in relation to that person disregarding any temporary vacancy in the office of liquidator,
  - (i) a voluntary arrangement has been approved in accordance with Part 1 or Part 8 of the Insolvency Act 1986 or Part 2 or Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989 in relation to that person and that voluntary arrangement has not come to an end prematurely,
  - (j) a county court administration order has been made under Part 6 of the County Courts Act 1984 or Part 6 of the Judgments Enforcement (Northern Ireland) Order 1981 in relation to that person and has not ceased to take effect,
  - (k) a compromise or arrangement sanctioned by the court and delivered to the registrar in accordance with section 899 of the Companies Act 2006 is in place in relation to that person,
  - <sup>F190</sup> [ a compromise or arrangement sanctioned by the court and delivered to the registrar or (as the case may be) published in the Gazette in accordance with section 901F of the Companies Act 2006 is in place in relation to that person,]
  - (l) that person's estate is vested in any other person as that person's trustee under a trust deed and that trust deed has become a protected trust deed,
  - (m) that person has died and an insolvency administration order has been made which has not been discharged in respect of that person's estate in accordance with an order under section 421 of the Insolvency Act 1986 or article 365 of the Insolvency (Northern Ireland) Order 1989 or that person's estate has been sequestrated under section 22 of the Bankruptcy (Scotland) Act 2016 and the award of sequestration has not been recalled,
  - (n) a voluntary arrangement has been approved in accordance with Part 1 of the Insolvency Act 1986 as applied by Part 2 of the Insolvent Partnerships Order 1994 or Part 2 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 2 of the Insolvent Partnerships Order (Northern Ireland) 1995 in relation to that person and that voluntary arrangement has not come to an end prematurely,
  - (o) an appointment of a liquidator is in force as a consequence of a creditors' voluntary winding up under Chapter 4 of Part 4 of the Insolvency Act 1986 as applied by Parts 4 and 5 of the Insolvent Partnerships Order 1994, or Chapter

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- 4 of Part 5 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Insolvent Partnerships Order (Northern Ireland) 1995 in relation to that person disregarding any temporary vacancy in the office of liquidator,
- (p) that person is in administration for the purposes of Schedule B1 to the Insolvency Act 1986 as applied by Part 3 of the Insolvent Partnerships Order 1994 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989 as applied by Part 3 of the Insolvent Partnerships Order (Northern Ireland) 1995,
- (q) a voluntary arrangement has been approved in accordance with Part 1 of the Insolvency Act 1986 as applied by Part 4 of the Limited Liability Partnerships Regulations 2001 or Part 2 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Limited Liability Partnerships Regulations (Northern Ireland) 2004 in relation to that person and that voluntary arrangement has not come to an end prematurely,
- (r) an appointment of a liquidator is in force as a consequence of a creditors' voluntary winding up under Chapter 4 of Part 4 of the Insolvency Act 1986 as applied by Part 4 of the Limited Liability Partnerships Regulations 2001 or Chapter 4 of Part 5 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Limited Liability Partnerships Regulations (Northern Ireland) 2004 in relation to that person disregarding any temporary vacancy in the office of liquidator,
- (s) that person is in administration for the purposes of Schedule B1 to the Insolvency Act 1986 as applied by Part 4 of the Limited Liability Partnerships Regulations 2001 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Limited Liability Partnerships Regulations (Northern Ireland) 2004.
- (9) In this section—
- “administrative receiver” means an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 or article 5(1) of the Insolvency (Northern Ireland) Order 1989;
- “protected trust deed” has the same meaning as in the Bankruptcy (Scotland) Act 2016;
- “tax advantage” has the same meaning as in Schedule 11A; and
- “trust deed” has the same meaning as in the Bankruptcy (Scotland) Act 2016.
- (10) In this section a voluntary arrangement comes to an end prematurely if it would be regarded as having come to an end prematurely under—
- (a) section 7B or section 262C of the Insolvency Act 1986; or
- (b) article 20B or article 236C of the Insolvency (Northern Ireland) Order 1989.
- (11) Section 6 applies for determining the time when a supply is to be treated as taking place for the purposes of construing this section.]

#### Textual Amendments

**F189** S. 26AA inserted (with effect in accordance with art. 9 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2017 \(S.I. 2017/495\)](#), arts. 1, **7(3)**

**F190** S. 26AA(8)(ka) inserted (26.6.2020) by [Corporate Insolvency and Governance Act 2020 \(c. 12\)](#), s. 49(1), [Sch. 9 para. 15](#) (with ss. 2(2), 5(2))

*Status: Point in time view as at 26/07/2021.*

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**Modifications etc. (not altering text)**

**C24** S. 26AA(8) modified (31.1.2019) by [The Further Education Bodies \(Insolvency\) Regulations 2019](#) (S.I. 2019/138), regs. 1(1), **35** (with regs. 1(2), 3(b))

[<sup>F191</sup>**26AB** **Adjustment of output tax in respect of supplies under section 55A**

- (1) This section applies if—
  - (a) a person is, as a result of section 26A, taken not to have been entitled to any credit for input tax in respect of any supply, and
  - (b) the supply is one in respect of which the person is required under section 55A(6) to account for and pay VAT.
- (2) The person is entitled to make an adjustment to the amount of VAT which he is so required to account for and pay.
- (3) The amount of the adjustment is to be equal to the amount of the credit for the input tax to which the person is taken not to be entitled.
- (4) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (5) Regulations under this section may in particular—
  - (a) make provision for the manner in which, and the period for which, the adjustment is to be given effect,
  - (b) require the adjustment to be evidenced and quantified by reference to such records and other documents as may be specified by or under the regulations,
  - (c) require the person entitled to the adjustment to keep, for such period and in such form and manner as may be so specified, those records and documents,
  - (d) make provision for readjustments if any credit for input tax is restored under section 26A.
- (6) Regulations under this section may make different provision for different circumstances.]

**Textual Amendments**

**F191** S. 26AB inserted (1.6.2007) by [Finance Act 2006 \(c. 25\)](#), s. **19(2)(8)**; S.I. 2007/1419, art. 2

[<sup>F192</sup>**26B** **Flat-rate scheme**

- (1) The Commissioners may by regulations make provision under which, where a taxable person so elects, the amount of his liability to VAT in respect of his relevant supplies in any prescribed accounting period shall be the appropriate percentage of his relevant turnover for that period.

A person whose liability to VAT is to any extent determined as mentioned above is referred to in this section as participating in the flat-rate scheme.

- (2) For the purposes of this section—

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- (a) a person’s “relevant supplies” are all supplies made by him except supplies made at such times or of such descriptions as may be specified in the regulations;
  - (b) the “appropriate percentage” is the percentage so specified for the category of business carried on by the person in question;
  - (c) a person’s “relevant turnover” is the total of—
    - (i) the value of those of his relevant supplies that are taxable supplies, together with the VAT chargeable on them, and
    - (ii) the value of those of his relevant supplies that are exempt supplies.
- (3) The regulations may designate certain categories of business as categories in relation to which the references in subsection (1) above to liability to VAT are to be read as references to entitlement to credit for VAT.
- (4) The regulations may provide for persons to be eligible to participate in the flat-rate scheme only in such cases and subject to such conditions and exceptions as may be specified in, or determined by or under, the regulations.
- (5) Subject to such exceptions as the regulations may provide for, a participant in the flat-rate scheme shall not be entitled to credit for input tax.

This is without prejudice to subsection (3) above.

- (6) The regulations may—
- (a) provide for the appropriate percentage to be determined by reference to the category of business that a person is expected, on reasonable grounds, to carry on in a particular period;
  - (b) provide, in such circumstances as may be prescribed, for different percentages to apply in relation to different parts of the same prescribed accounting period;
  - (c) make provision for determining the category of business to be regarded as carried on by a person carrying on businesses in more than one category.
- (7) The regulations may provide for the following matters to be determined in accordance with notices published by the Commissioners—
- (a) when supplies are to be treated as taking place for the purposes of ascertaining a person’s relevant turnover for a particular period;
  - (b) the method of calculating any adjustments that fall to be made in accordance with the regulations in a case where a person begins or ceases to participate in the flat-rate scheme.
- (8) The regulations may make provision enabling the Commissioners—
- (a) to authorise a person to participate in the flat-rate scheme with effect from—
    - (i) a day before the date of his election to participate, or
    - (ii) a day that is not earlier than that date but is before the date of the authorisation;
  - (b) to direct that a person shall cease to be a participant in the scheme with effect from a day before the date of the direction.

The day mentioned in paragraph (a)(i) above may be a day before the date on which the regulations come into force.

- (9) Regulations under this section—
- (a) may make different provision for different circumstances;

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- (b) may make such incidental, supplemental, consequential or transitional provision as the Commissioners think fit, including provision disapplying or applying with modifications any provision contained in or made under this Act.]

#### Textual Amendments

**F192** S. 26B inserted (retropective to 24.4.2002) by [Finance Act 2002 \(c. 23\)](#), [s. 23\(1\)\(4\)](#)

## 27 Goods imported for private purposes.

- (1) Where goods are imported by a taxable person <sup>F193</sup>... and—
- (a) at the time of importation they belong wholly or partly to another person; and
- (b) the purposes for which they are to be used include private purposes either of himself or of the other,

VAT paid or payable by the taxable person on the importation of the goods shall not be regarded as input tax to be deducted or credited under section 25; but he may make a separate claim to the Commissioners for it to be repaid.

- (2) The Commissioners shall allow the claim if they are satisfied that to disallow it would result, in effect, in a double charge to VAT; and where they allow it they shall do so only to the extent necessary to avoid the double charge.
- (3) In considering a claim under this section, the Commissioners shall have regard to the circumstances of the importation and, so far as appearing to them to be relevant, things done with, or occurring in relation to, the goods at any subsequent time.
- (4) Any amount allowed by the Commissioners on the claim shall be paid by them to the taxable person.
- (5) The reference above to a person's private purposes is to purposes which are not those of any business carried on by him.

#### Textual Amendments

**F193** Words in s. 27(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 27](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

## 28 Payments on account of VAT.

- (1) The Treasury may make an order under this section if they consider it desirable to do so in the interests of the national economy.
- (2) An order under this section may provide that a taxable person of a description specified in the order shall be under a duty—
- (a) to pay, on account of any VAT he may become liable to pay in respect of a prescribed accounting period, amounts determined in accordance with the order, and
- (b) to do so at such times as are so determined.

*Status: Point in time view as at 26/07/2021.*

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- [<sup>F194</sup>(2AA) An order under this section may provide for the matters with respect to which an appeal under section 83 lies to a tribunal to include such decisions of the Commissioners under that or any other order under this section as may be specified in the order.]
- [<sup>F195</sup>(2A) The Commissioners may give directions, to persons who are or may become liable by virtue of any order under this section to make payments on account of VAT, about the manner in which they are to make such payments; and where such a direction has been given to any person and has not subsequently been withdrawn, any duty of that person by virtue of such an order to make such a payment shall have effect as if it included a requirement for the payment to be made in the manner directed.]
- (3) Where an order is made under this section, the Commissioners may make regulations containing such supplementary, incidental or consequential provisions as appear to the Commissioners to be necessary or expedient.
- (4) A provision of an order or regulations under this section may be made in such way as the Treasury or, as the case may be, the Commissioners think fit (whether by amending provisions of or made under the enactments relating to VAT or otherwise).
- (5) An order or regulations under this section may make different provision for different circumstances.

#### Textual Amendments

**F194** S. 28(2AA) inserted (29.4.1996) by 1997 c. 16, s. 43

**F195** S. 28(2A) inserted (29.4.1996) by 1996 c. 8, s. 34

## 29 Invoices provided by recipients of goods or services.

Where—

- (a) a taxable person (“the recipient”) provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and
- (b) that document understates the VAT chargeable on the supply,

the Commissioners may, by notice served on the recipient and on the supplier, elect that the amount of VAT understated by the document shall be regarded for all purposes as VAT due from the recipient and not from the supplier.

## PART II

### RELIEFS, EXEMPTIONS AND REPAYMENTS

*Reliefs etc. generally available*

#### [<sup>F196</sup>29A Reduced rate

- (1) VAT charged on—
- (a) any supply that is of a description for the time being specified in Schedule 7A, or
  - (b) any equivalent <sup>F197</sup>... importation,

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shall be charged at the rate of 5 per cent.

- [<sup>F198</sup>(2) The reference in subsection (1) to an equivalent importation, in relation to any supply that is of a description for the time being specified in Schedule 7A, is a reference to any importation of any goods the supply of which would be such a supply.]
- (3) The Treasury may by order vary Schedule 7A by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.
- (4) The power to vary Schedule 7A conferred by subsection (3) above may be exercised so as to describe a supply of goods or services by reference to matters unrelated to the characteristics of the goods or services themselves. In the case of a supply of goods, those matters include, in particular, the use that has been made of the goods.]

#### Textual Amendments

- F196** S. 29A inserted (11.5.2001 with effect as mentioned in s. 99(7)(c) of the amending Act) by 2001 c. 9, s. 99(4)
- F197** Words in s. 29A(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 28\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)
- F198** S. 29A(2) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 28\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)

### 30 Zero-rating.

- (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not VAT would be chargeable on the supply apart from this section—
- no VAT shall be charged on the supply; but
  - it shall in all other respects be treated as a taxable supply;
- and accordingly the rate at which VAT is treated as charged on the supply shall be nil.
- (2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 8 or the supply is of a description for the time being so specified.
- [<sup>F199</sup>(2A) A supply by a person of services which consist of applying a treatment or process to another person's goods is zero-rated by virtue of this subsection if by doing so he produces goods, and either—
- those goods are of a description for the time being specified in Schedule 8; or
  - a supply by him of those goods to the person to whom he supplies the services would be of a description so specified.]

(3) Where goods of a description for the time being specified in that Schedule, or of a description forming part of a description of supply for the time being so specified, are [<sup>F200</sup>imported, no VAT shall be chargeable on their importation] except as otherwise provided in that Schedule.

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(4) The Treasury may by order vary Schedule 8 by adding to or deleting from it any description or by varying any description for the time being specified in it.

[<sup>F201</sup>(5) The export of any goods by a charity <sup>F202</sup>... shall for the purposes of this Act be treated as a supply made by the charity—

- (a) in the United Kingdom, and
- (b) in the course or furtherance of a business carried on by the charity.]

(6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—

- (a) has exported them <sup>F203</sup>...; or
- (b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft,

and in either case if such other conditions, if any, as may be specified in regulations or the Commissioners may impose are fulfilled.

(7) Subsection (6)(b) above shall not apply in the case of goods shipped for use as stores on a voyage or flight to be made by the person to whom the goods were supplied and to be made for a purpose which is private.

(8) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—

- [<sup>F204</sup>(a) the Commissioners are satisfied that the goods have been or are to be exported to such places as may be specified in the regulations, and]
- (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

<sup>F205</sup>(8A) .....

(9) Regulations may provide for the zero-rating of a supply of services which is made where goods are let on hire and the Commissioners are satisfied that the goods have been or are to be [<sup>F206</sup>exported] during the period of the letting, and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

(10) Where the supply of any goods has been zero-rated by virtue of subsection (6) above or in pursuance of regulations made under [<sup>F207</sup>subsection (8) or (9)] above and—

- (a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported or shipped <sup>F208</sup>...; or
- (b) any condition specified in the relevant regulations under [<sup>F209</sup>subsection (6), (8) or (9)] above or imposed by the Commissioners is not complied with,

and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Management Act and the VAT that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that VAT.



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### Textual Amendments

- F199** S. 30(2A) inserted (29.4.1996 with effect as mentioned in s. 29(5) of the amending Act) by 1996 c. 8, s. 29(2)(5)
- F200** Words in s. 30(3) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(2) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F201** S. 30(5) substituted (1.5.1995 with effect as mentioned in s. 28(2) of the amending Act) by 1995 c. 4, s. 28(1)
- F202** Words in s. 30(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(3) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F203** Words in s. 30(6)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(4) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F204** S. 30(8)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(5) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F205** S. 30(8A) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(6) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F206** Word in s. 30(9) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(7) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F207** Words in s. 30(10) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(8)(a) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F208** Words in s. 30(10)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(8)(b) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F209** Words in s. 30(10)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 29(8)(c) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### 31 Exempt supplies <sup>F210</sup>....

- (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 9 <sup>F211</sup>....
- (2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it, and the Schedule may be varied so as to describe a supply of goods by

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reference to the use which has been made of them or to other matters unrelated to the characteristics of the goods themselves.

[<sup>F212</sup>(3) The Treasury may by regulations make an exemption of a group 16 supply of a description specified in the regulations subject to conditions.

- (4) Regulations under subsection (3) may—
  - (a) make different provision for different cases, and
  - (b) make consequential or transitional provision (including provision amending this Act).

(5) In subsection (3) “group 16 supply” means a supply falling within Group 16 of Schedule 9.]

**Textual Amendments**

**F210** Words in s. 31 heading omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 30(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)–(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**F211** Words in s. 31(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 30(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)–(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**F212** S. 31(3)–(5) inserted (17.7.2012) by [Finance Act 2012](#) (c. 14), s. **197(3)**

**Modifications etc. (not altering text)**

**C25** S. 31(2) extended (27.7.1999) by [1999 c. 16](#), s. **13(2)**

<sup>F213</sup>**32** .....

**Textual Amendments**

**F213** S. 32 repealed (1.6.1995) by [1995 c. 4](#), ss. 24(2), 162, **Sch. 29 Pt. VI(3)** Note; S.I. 1995/1374, **art. 2**

**33 Refunds of VAT in certain cases.**

- (1) Subject to the following provisions of this section, where—
  - [<sup>F214</sup>(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies, and]
  - (b) the supply<sup>F215</sup>... or importation is not for the purpose of any business carried on by the body,

the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the VAT so chargeable.

(2) Where goods or services so supplied to <sup>F216</sup>... or imported by the body cannot be conveniently distinguished from goods or services supplied to <sup>F216</sup>... or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the

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- chargeable on any supply to <sup>F217</sup>... or importation by the body such proportion thereof as appears to the Commissioners to be attributable to the carrying on of the business; but where—
- (a) the VAT so attributable is or includes VAT attributable, in accordance with regulations under section 26, to exempt supplies by the body, and
  - (b) the VAT attributable to the exempt supplies is in the opinion of the Commissioners an insignificant proportion of the VAT so chargeable,
- they may include it in the VAT refunded under this section.
- (3) The bodies to which this section applies are—
- (a) a local authority [<sup>F218</sup>and a combined authority established by an order made under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009];
  - [<sup>F219</sup>(aa) a fire and rescue authority under the Fire and Rescue Services Act 2004, if the authority does not fall within paragraph (a);
  - (ab) the Scottish Fire and Rescue Service;]
  - (b) a river purification board established under section 135 of the <sup>M2</sup>Local Government (Scotland) Act 1973, and a water development board within the meaning of section 109 of the <sup>M3</sup>Water (Scotland) Act 1980;
  - (c) an internal drainage board;
  - (d) [<sup>F220</sup>an Integrated Transport Authority, Passenger Transport Authority or Passenger Transport Executive for the purposes of Part 2 of the Transport Act 1968;]
  - (e) a port health authority within the meaning of the <sup>M5</sup>Public Health (Control of Disease) Act 1984, <sup>F221</sup>...;
  - (f) [<sup>F222</sup>a police and crime commissioner, the Mayor's Office for Policing and Crime and]<sup>F223</sup>... the Receiver for the Metropolitan Police District;
  - [<sup>F224</sup>(fa) the Scottish Police Authority;
  - (fb) the Police Service of Northern Ireland and the Northern Ireland Policing Board;]
  - (g) a development corporation within the meaning of the <sup>M6</sup>New Towns Act 1981 or the <sup>M7</sup>New Towns (Scotland) Act 1968, a new town commission within the meaning of the <sup>M8</sup>New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns;
  - (h) a general lighthouse authority within the meaning of [<sup>F225</sup>Part VIII of the <sup>M9</sup>Merchant Shipping Act 1995];
  - (i) the British Broadcasting Corporation;
  - [<sup>F226</sup>(ia) S4C;]
  - [<sup>F227</sup>(j) the appointed news provider referred to in section 280 of the Communications Act 2003; and]
  - (k) any body specified for the purposes of this section by an order made by the Treasury.
- (4) No VAT shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than those concerned with the provision, maintenance or management of lights or other navigational aids.
- (5) No VAT shall be refunded under this section to [<sup>F228</sup>an appointed] news provider which in the opinion of the Commissioners is attributable to activities other than the

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provision of news programmes for broadcasting by holders of regional Channel 3 licences (within the meaning of Part I of the <sup>M10</sup>Broadcasting Act 1990).

- (6) References in this section to VAT chargeable do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.

#### Textual Amendments

- F214** S. 33(1)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 31(2)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F215** Word in s. 33(1)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 31(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F216** Words in s. 33(2) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 31(3)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F217** Words in s. 33(2) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 31(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F218** Words in s. 33(3)(a) inserted (with effect in accordance with s. 39(6) of the amending Act) by Finance Act 2018 (c. 3), **s. 39(2)**
- F219** S. 33(3)(aa)(ab) inserted (with effect in accordance with s. 39(6) of the amending Act) by Finance Act 2018 (c. 3), **s. 39(3)**
- F220** S. 33(3)(d) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 59(2)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F221** Words in s. 33(3)(e) repealed (S) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **sch. 3 pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), sch. 1
- F222** Words in s. 33(3)(f) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 217**; S.I. 2011/3019, art. 3, Sch. 1
- F223** Words in s. 33(3)(f) omitted (with effect in accordance with s. 39(6) of the amending Act) by virtue of Finance Act 2018 (c. 3), **s. 39(4)**
- F224** S. 33(3)(fa)(fb) inserted (with effect in accordance with s. 39(6) of the amending Act) by Finance Act 2018 (c. 3), **s. 39(5)**
- F225** Words in s. 33(3)(h) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 95** (with s. 312(1))
- F226** S. 33(3)(ia) inserted (with effect in accordance with s. 100(2) of the amending Act) by Finance Act 2021 (c. 26), **s. 100(1)**
- F227** S. 33(3)(j) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 129(2)(a)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F228** Words in s. 33(5) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 129(2)(b)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### Modifications etc. (not altering text)

- C26** S. 33 applied (15.8.1995) (*temp.* until 1.4.1996) by S.I. 1995/1878, **art. 4**
- C27** S. 33 excluded (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 2 para. 16**

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#### Marginal Citations

<b>M2</b>	1973 c. 65.
<b>M3</b>	1980 c. 45.
<b>M4</b>	1968 c. 73.
<b>M5</b>	1984 c. 22.
<b>M6</b>	1981 c. 64.
<b>M7</b>	1968 c. 16.
<b>M8</b>	1965 c. 60.
<b>M9</b>	1995 c. 21.
<b>M10</b>	1990 c. 42.

### 33A <sup>F229</sup> Refunds of VAT to museums and galleries

- (1) Subsections (2) to (5) below apply where—
  - [<sup>F230</sup>(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies,]
  - (b) the supply<sup>F231</sup> ... or importation is attributable to the provision by the body of free rights of admission to a relevant museum or gallery, and
  - (c) the supply is made, or the <sup>F232</sup> ... importation takes place, on or after 1st April 2001.
- (2) The Commissioners shall, on a claim made by the body in such form and manner as the Commissioners may determine, refund to the body the amount of VAT so chargeable.
- (3) The claim must be made before the end of the claim period.
- (4) Subject to subsection (5) below, “the claim period” is the period of [<sup>F233</sup>4 years] beginning with the day on which the supply is made or the <sup>F234</sup> ... importation takes place.
- (5) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.
- (6) Subsection (7) below applies where goods or services supplied to, <sup>F235</sup> ... or imported by, a body to which this section applies that are attributable to free admissions cannot conveniently be distinguished from goods or services supplied to, <sup>F235</sup> ... or imported by, the body that are not attributable to free admissions.
- (7) The amount to be refunded on a claim by the body under this section shall be such amount as remains after deducting from the VAT related to the claim such proportion of that VAT as appears to the Commissioners to be attributable otherwise than to free admissions.
- (8) For the purposes of subsections (6) and (7) above—
  - (a) goods or services are, and VAT is, attributable to free admissions if they are, or it is, attributable to the provision by the body of free rights of admission to a relevant museum or gallery;
  - (b) the VAT related to a claim is the whole of the VAT chargeable on—
    - (i) the supplies to the body, and
    - (ii) the <sup>F236</sup> ... importations by the body,to which the claim relates.
- (9) The Treasury may by order—

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- (a) specify a body as being a body to which this section applies;
  - (b) when specifying a body under paragraph (a), specify any museum or gallery that, for the purposes of this section, is a “relevant” museum or gallery in relation to the body;
  - (c) specify an additional museum or gallery as being, for the purposes of this section, a “relevant” museum or gallery in relation to a body to which this section applies;
  - (d) when specifying a museum or gallery under paragraph (b) or (c), provide that this section shall have effect in the case of the museum or gallery as if in subsection (1)(c) there were substituted for 1st April 2001 a later date specified in the order.
- (10) References in this section to VAT do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.

#### Textual Amendments

- F229** S. 33A inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. 98(2)(10)(11)
- F230** S. 33A(1)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 32(2)(a) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F231** Word in s. 33A(1)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 32(2)(b) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F232** Words in s. 33A(1)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 32(2)(c) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F233** Words in s. 33A(4) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), Sch. 39 para. 33; S.I. 2009/403, art. 2(1) (with art. 3)
- F234** Words in s. 33A(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 32(3) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F235** Words in s. 33A(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 32(4) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F236** Words in s. 33A(8)(b)(ii) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 32(5) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### Modifications etc. (not altering text)

- C28** S. 33A applied (with modifications) (1.9.2001) by S.I. 2001/2879, arts. 2-4, Sch.

### [<sup>F237</sup> 33B Refunds of VAT to Academies

- (1) This section applies where—

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- [<sup>F238</sup>(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, the proprietor of an Academy, and]
- (b) the supply<sup>F239</sup> ... or importation is not for the purposes of any business carried on by the proprietor of the Academy.
- (2) The Commissioners shall, on a claim made by the proprietor of the Academy at such time and in such form and manner as the Commissioners may determine, refund to that proprietor the amount of VAT so chargeable.
- (3) Subject to subsection (4), the claim must be made before the end of the period of 4 years beginning with the day on which the supply is made or the <sup>F240</sup>... importation takes place.
- (4) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.
- (5) Subsection (6) applies where goods or services supplied to, <sup>F241</sup>... or imported by, the proprietor of the Academy cannot be conveniently distinguished from goods or services supplied to, <sup>F241</sup>... or imported by, it for the purpose of a business carried on by that proprietor.
- (6) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, <sup>F242</sup>... or importation by, the proprietor of the Academy such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business.
- (7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.
- (8) In this section—
- (a) references to the proprietor of an Academy are to the proprietor of the Academy acting in that capacity, and
- (b) “Academy” and “proprietor” have the same meaning as in the Education Act 1996 (see section 579 of that Act).]

#### Textual Amendments

- F237** S. 33B inserted (with effect in accordance with s. 76(5) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 76\(1\)](#)
- F238** S. 33B(1)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 33\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F239** Word in s. 33B(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 33\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F240** Words in s. 33B(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 33\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F241** Words in s. 33B(5) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 33\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I.](#)

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2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**F242** Words in s. 33B(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 33(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

### **[<sup>F243</sup>33C Refunds of VAT to charities within section 33D**

(1) This section applies to a charity that falls within any of the descriptions in section 33D.

A charity to which this section applies is referred to in this section as a “qualifying charity”.

(2) This section applies where—

[<sup>F244</sup>(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a qualifying charity, and]

(b) the supply<sup>F245</sup> ... or importation is not for the purpose of any business carried on by the qualifying charity.

(3) The Commissioners shall, on a claim made by the qualifying charity at such time and in such form and manner as the Commissioners may determine, refund to the qualifying charity the amount of the VAT so chargeable.

(4) A claim under subsection (3) above in respect of a [<sup>F246</sup>supply or] importation must be made before the end of the period of 4 years beginning with the day on which the supply is made or [<sup>F247</sup>the importation] takes place.

(5) Subsection (6) applies where goods or services supplied to, <sup>F248</sup>... or imported by, a qualifying charity otherwise than for the purpose of any business carried on by the qualifying charity cannot be conveniently distinguished from goods or services supplied to, <sup>F248</sup>... or imported by, the qualifying charity for the purpose of such a business.

(6) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, <sup>F249</sup>... or importation by, the qualifying charity such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business.

(7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.

#### **Textual Amendments**

**F243** Ss. 33C, 33D inserted (with effect in accordance with s. 66(5) of the amending Act) by Finance Act 2015 (c. 11), s. **66(1)** (with s. 66(6))

**F244** S. 33C(2)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 34(2)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

**F245** Word in s. 33C(2)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 34(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)



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- F246** Words in s. 33C(4) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 34(3)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F247** Words in s. 33C(4) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 34(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F248** Words in s. 33C(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 34(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F249** Words in s. 33C(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 34(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

### **33D Charities to which section 33C applies**

#### *Palliative care charities*

- (1) “Palliative care charity” means a charity the main purpose of which is the provision of palliative care at the direction of, or under the supervision of, a medical professional to persons who are in need of such care as a result of having a terminal illness.
- (2) In subsection (1) “medical professional” means—
- a registered medical practitioner, or
  - a registered nurse.

#### *Air ambulance charities*

- (3) “Air ambulance charity” means a charity the main purpose of which is to provide an air ambulance service in pursuance of arrangements made by, or at the request of, a relevant NHS body.
- (4) In subsection (3) “relevant NHS body” means a body the main purpose of which is to provide ambulance services and which is—
- an NHS foundation trust in England,
  - an NHS trust in Wales,
  - a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978, or
  - a Health and Social Care trust established under the Health and Personal Social Services (Northern Ireland) Order 1991.

#### *Search and rescue charities*

- (5) “Search and rescue charity” means a charity that meets condition A or B.
- (6) Condition A is that—
- the main purpose of the charity is to carry out search and rescue activities in the United Kingdom or the UK marine area, and

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- (b) the search and rescue activities carried out by the charity are co-ordinated by a relevant authority.
- (7) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.
- (8) For the purposes of subsection (6)—
- “search and rescue activities” means searching for, and rescuing, persons who are, or may be, at risk of death or serious injury;
- “relevant authority” means—
- (a) the Secretary of State;
  - (b) a police force;
  - (c) the Scottish Fire and Rescue Service;
  - (d) any other person or body specified for the purposes of subsection (6) by an order made by the Treasury;
- “police force” means—
- (a) a police force within the meaning of the Police Act 1996;
  - (b) the Police Service of Scotland;
  - (c) the Police Service of Northern Ireland;
  - (d) the Police Service of Northern Ireland Reserve;
  - (e) the British Transport Police Force;
  - (f) the Civil Nuclear Constabulary;
  - (g) the Ministry of Defence Police;
- “UK marine area” has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009.

*Medical courier charities*

- (9) “Medical courier charity” means a charity that meets condition A or B.
- (10) Condition A is that the main purpose of the charity is to provide services for the transportation of items intended for use for medical purposes, including in particular—
- (a) blood;
  - (b) medicines and other medical supplies;
  - (c) items relating to people who are undergoing medical treatment.
- (11) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.
- (12) In subsection (10) “item” includes any substance.]

**Textual Amendments**

**F243** Ss. 33C, 33D inserted (with effect in accordance with s. 66(5) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [s. 66\(1\)](#) (with [s. 66\(6\)](#))

**[<sup>F250</sup>33E Power to extend refunds of VAT to other persons**

- (1) This section applies where—

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- [<sup>F251</sup>(a) VAT is chargeable on the supply of goods or services to, or on the importation of goods by, a specified person, and]
- (b) the supply<sup>F252</sup>... or importation is not for the purpose of—
- (i) any business carried on by the person, or
  - (ii) a supply by the person which, by virtue of section 41A, is treated as a supply in the course or furtherance of a business.
- (2) If and to the extent that the Treasury so direct, the Commissioners shall, on a claim made by the specified person at such time and in such form and manner as the Commissioners may determine, refund to the person the amount of the VAT so chargeable.
- This is subject to subsection (3) below.
- (3) A specified person may not make a claim under subsection (2) above unless it has been agreed with the Treasury that, in the circumstances specified in the agreement, the amount of the person's funding is to be reduced by all or part of the amount of the VAT so chargeable.
- (4) A claim under subsection (2) above in respect of a supply<sup>F253</sup>... or importation must be made on or before the relevant day.
- (5) The “relevant day” is—
- (a) in the case of a person who is registered, the last day on which the person may make a return under this Act for the prescribed accounting period containing the last day of the financial year in which the supply is made or the <sup>F254</sup>... importation takes place;
  - (b) in the case of a person who is not registered, the last day of the period of 3 months beginning immediately after the end of the financial year in which the supply is made or the <sup>F255</sup>... importation takes place.
- (6) Subsection (7) applies where goods or services supplied to, <sup>F256</sup>... or imported by, a specified person otherwise than for the purpose of—
- (a) any business carried on by the person, or
  - (b) a supply falling within subsection (1)(b)(ii) above,
- cannot be conveniently distinguished from goods or services supplied to, <sup>F256</sup>... or imported by, the person for such a purpose.
- (7) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, <sup>F257</sup>... or importation by, the specified person such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business or (as the case may be) the making of the supply.
- (8) In this section, “specified person” means a person specified in an order made by the Treasury.
- (9) An order under subsection (8) may make transitional provision or savings.
- (10) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.]

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### Textual Amendments

- F250** S. 33E inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 122](#)
- F251** S. 33E(1)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 35\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F252** Word in s. 33E(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 35\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F253** Word in s. 33E(4) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 35\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F254** Words in s. 33E(5)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 35\(4\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F255** Words in s. 33E(5)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 35\(4\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F256** Words in s. 33E(6) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 35\(5\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F257** Words in s. 33E(7) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 35\(6\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

## 34 Capital goods.

- (1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from VAT paid on the supply<sup>F258</sup>... or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that VAT or part of that VAT cannot be credited under section 25 and such other conditions are satisfied as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may provide for relief to be given by deduction or refunding of VAT and for aggregating or excluding the aggregation of value where goods of the same description are supplied<sup>F259</sup>... or imported together.

### Textual Amendments

- F258** Word in s. 34(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 36\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

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**F259** Word in s. 34(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 36\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

### 35 Refund of VAT to persons constructing certain buildings.

[<sup>F260</sup>(1) Where—

- (a) a person carries out works to which this section applies,
- (b) his carrying out of the works is lawful and otherwise than in the course or furtherance of any business, and
- (c) VAT is chargeable on the supply<sup>F261</sup> ... or importation of any goods used by him for the purposes of the works,

the Commissioners shall, on a claim made in that behalf, refund to that person the amount of VAT so chargeable.

(1A) The works to which this section applies are—

- (a) the construction of a building designed as a dwelling or number of dwellings;
- (b) the construction of a building for use solely for a relevant residential purpose or relevant charitable purpose; and
- (c) a residential conversion.

(1B) For the purposes of this section goods shall be treated as used for the purposes of works to which this section applies by the person carrying out the works in so far only as they are building materials which, in the course of the works, are incorporated in the building in question or its site.

(1C) Where—

- (a) a person (“the relevant person”) carries out a residential conversion by arranging for any of the work of the conversion to be done by another (“a contractor”),
  - (b) the relevant person’s carrying out of the conversion is lawful and otherwise than in the course or furtherance of any business,
  - (c) the contractor is not acting as an architect, surveyor or consultant or in a supervisory capacity, and
  - (d) VAT is chargeable on services consisting in the work done by the contractor,
- the Commissioners shall, on a claim made in that behalf, refund to the relevant person the amount of VAT so chargeable.

(1D) For the purposes of this section works constitute a residential conversion to the extent that they consist in the conversion of a non-residential building, or a non-residential part of a building, into—

- (a) a building designed as a dwelling or a number of dwellings;
- (b) a building intended for use solely for a relevant residential purpose; or
- (c) anything which would fall within paragraph (a) or (b) above if different parts of a building were treated as separate buildings.]

(2) The Commissioners shall not be required to entertain a claim for a refund of VAT under this section unless the claim—

- (a) is made within such time and in such form and manner, and
- (b) contains such information, and

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(c) is accompanied by such documents, whether by way of evidence or otherwise, [F262as may be specified by regulations or by the Commissioners in accordance with regulations.]

F263(3) . . . . .

[F264(4) The notes to Group 5 of Schedule 8 shall apply for construing this section as they apply for construing that Group.

(5) The power of the Treasury by order under section 30 to vary Schedule 8 shall include—

- (a) power to apply any variation made by the order for the purposes of this section; and
- (b) power to make such consequential modifications of this section as they may think fit [F265but this is subject to subsection (4A) below.].]

[F266(4A) The meaning of “non-residential” given by Note (7A) of Group 5 of Schedule 8 (and not that given by Note (7) of that Group) applies for the purposes of this section but as if—

- (a) references in that Note to item 3 of that Group were references to this section, and
- (b) paragraph (b)(iii) of that Note were omitted.]

#### Textual Amendments

- F260** S. 35(1)(1A)-(1D) substituted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) for s. 35(1) by 1996 c. 8, s. 30(1)
- F261** Word in s. 35(1)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 37(2) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F262** Words in s. 35(2) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 29 para. 4
- F263** S. 35(3) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 37(3) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F264** S. 35(4)(5) inserted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) by 1996 c. 8, s. 30(3)
- F265** Words in s. 35(4) inserted (1.8.2001) by S.I. 2001/2305, art. 4(a)
- F266** S. 35(4A) inserted (1.8.2001) by S.I. 2001/2305, art. 4(b)

### 36 Bad debts.

(1) Subsection (2) below applies where—

- (a) a person has supplied goods or services F267 . . . and has accounted for and paid VAT on the supply,
- (b) the whole or any part of the consideration for the supply has been written off in his accounts as a bad debt, and
- (c) a period of 6 months (beginning with the date of the supply) has elapsed.

(2) Subject to the following provisions of this section and to regulations under it the person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of VAT chargeable by reference to the outstanding amount.

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- [<sup>F268</sup>(3) In subsection (2) above “the outstanding amount” means—
- (a) if at the time of the claim no part of the consideration written off in the claimant’s accounts as a bad debt has been received, an amount equal to the amount of the consideration so written off;
  - (b) if at that time any part of the consideration so written off has been received, an amount by which that part is exceeded by the amount of the consideration written off;

and in this subsection “received” means received either by the claimant or by a person to whom has been assigned a right to receive the whole or any part of the consideration written off.]

- [<sup>F269</sup>(3A) For the purposes of this section, where the whole or any part of the consideration for the supply does not consist of money, the amount in money that shall be taken to represent any non-monetary part of the consideration shall be so much of the amount made up of—

- (a) the value of the supply, and
- (b) the VAT charged on the supply,

as is attributable to the non-monetary consideration in question.]

- (4) A person shall not be entitled to a refund under subsection (2) above unless—
- (a) the value of the supply is equal to or less than its open market value, <sup>F270</sup> . . .
  - <sup>F270</sup>(b) . . . . .

- (4A) <sup>F271</sup> . . . . .

- (5) Regulations under this section may—
- (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations;
  - (b) require a claim to be evidenced and quantified by reference to such records and other documents as may be so specified;
  - (c) require the claimant to keep, for such period and in such form and manner as may be so specified, those records and documents and a record of such information relating to the claim and to [<sup>F272</sup>anything subsequently received] by way of consideration as may be so specified;
  - (d) require the repayment of a refund allowed under this section where any requirement of the regulations is not complied with;
  - (e) require the repayment of the whole or, as the case may be, an appropriate part of a refund allowed under this section [<sup>F273</sup>where any part (or further part) of the consideration written off in the claimant’s accounts as a bad debt is subsequently received either by the claimant or, except in such circumstances as may be prescribed, by a person to whom has been assigned a right to receive the whole or any part of that consideration;]
  - (ea) <sup>F274</sup> . . . . .
  - (f) include such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section;
  - (g) make different provision for different circumstances.

- (6) The provisions which may be included in regulations by virtue of subsection (5)(f) above may include rules for ascertaining—

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- (a) whether, when and to what extent consideration is to be taken to have been written off in accounts as a bad debt;
  - (b) whether [<sup>F275</sup>anything received] is to be taken as received by way of consideration for a particular supply;
  - (c) whether, and to what extent, [<sup>F275</sup>anything received] is to be taken as received by way of consideration written off in accounts as a bad debt.
- (7) The provisions which may be included in regulations by virtue of subsection (5) (f) above may include rules dealing with particular cases, such as those involving [<sup>F276</sup>receipt of part of the consideration] or mutual debts; and in particular such rules may vary the way in which the following amounts are to be calculated—
- (a) the outstanding amount mentioned in subsection (2) above, and
  - (b) the amount of any repayment where a refund has been allowed under this section.
- (8) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.

#### Textual Amendments

- F267** Words in s. 36(1)(a) repealed (31.7.1998 with effect as mentioned in s. 23(7) of the amending Act) by 1998 c. 36, ss. 23(1)(7), 165, **Sch. 27 Pt. II** Note
- F268** S. 36(3) substituted (27.7.1999 with effect as mentioned in s. 15(5) of the amending Act) by S.I. 1999 c. 16, s. 15(1)
- F269** S. 36(3A) inserted (31.7.1998 with effect as mentioned in s. 23(7) of the amending Act) by 1998 c. 36, s. 23(3)(7)
- F270** S. 36(4)(b) and word “and” immediately preceding it repealed (19.3.1997 with effect as mentioned in s. 39 of the amending Act) by 1997 c. 16, ss. 39, 113, **Sch. 18 Pt. IV(3)** Note
- F271** S. 36(4A) repealed (with effect as mentioned in s. 22(3) of the amending Act) by Finance Act 2002 (c. 23), s. 22(2), **Sch. 40 Pt. 2(1)**; S.I. 2002/3028, art. 2
- F272** Words in s. 36(5)(c) substituted (31.7.1998) by 1998 c. 36, s. 23(4)(a)
- F273** Words in s. 36(5)(e) substituted (27.7.1999 with effect as mentioned in s. 15(5) of the amending Act) by 1999 c. 16, s. 15(2)
- F274** S. 36(5)(ea) repealed (with effect as mentioned in s. 22(3) of the amending Act) by Finance Act 2002 (c. 23), s. 22(2), **Sch. 40 Pt. 2(1)**; S.I. 2002/3028, art. 2
- F275** Words in s. 36(6)(b)(c) substituted (31.7.1998) by 1998 c. 36, s. 23(5)
- F276** Words in s. 36(7) substituted (31.7.1998) by 1998 c. 36, s. 23(6)

#### [<sup>F277</sup>Acquisitions]

#### Textual Amendments

- F277** S. 36A and preceding cross heading inserted (24.7.2002) by Finance Act 2002 (c.23), s. 25

#### <sup>F278</sup>36A Relief from VAT on acquisition if importation would attract relief

.....



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**Textual Amendments**

**F278** S. 36A omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 38](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with reg. 7)

*Imports, overseas businesses etc*

**37** [<sup>F279</sup>**VAT on importation of goods: reliefs etc**]

[<sup>F280</sup>(A1) No VAT is chargeable on the importation of goods to which section 7(5B) applies.]

- (1) The Treasury may by order make provision for giving relief from the whole or part of the VAT chargeable on the importation of goods <sup>F281</sup>..., subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order <sup>F282</sup>....
- (2) In any case where—
  - (a) it is proposed that goods which have been imported <sup>F283</sup>... by any person (“the original importer”) with the benefit of relief under subsection (1) above shall be transferred to another person (“the transferee”), and
  - (b) on an application made by the transferee, the Commissioners direct that this subsection shall apply,this Act shall have effect as if, on the date of the transfer of the goods (and in place of the transfer), the goods were exported by the original importer and imported by the transferee and, accordingly, where appropriate, provision made under subsection (1) above shall have effect in relation to the VAT chargeable on the importation of the goods by the transferee.
- (3) The Commissioners may by regulations make provision for remitting or repaying, if they think fit, the whole or part of the VAT chargeable on the importation of any goods <sup>F284</sup>... which are shown to their satisfaction to have been previously exported <sup>F285</sup>....
- (4) The Commissioners may by regulations make provision for remitting or repaying the whole or part of the VAT chargeable on the importation of any goods <sup>F286</sup>... if they are satisfied that the goods have been or are to be re-exported <sup>F287</sup>... and they think fit to do so in all the circumstances and having regard—
  - (a) to the VAT chargeable on the supply of like goods in the United Kingdom;
  - <sup>F288</sup>(b) .....

**Textual Amendments**

**F279** S. 37 heading substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 7\(2\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)

**F280** S. 37(A1) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 7\(3\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)

**F281** Words in s. 37(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 39\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I.

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- 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F282** Words in s. 37(1) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 39(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F283** Words in s. 37(2)(a) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 39(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F284** Words in s. 37(3) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 39(4)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F285** Words in s. 37(3) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 39(4)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F286** Words in s. 37(4) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 39(5)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F287** Words in s. 37(4) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 39(5)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F288** S. 37(4)(b) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 39(5)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

#### Modifications etc. (not altering text)

- C29** S. 37(1) extended (27.7.1999) by 1999 c. 16, s. **13(3)**

### 38 Importation of goods by taxable persons.

The Commissioners may by regulations make provision for enabling goods imported<sup>F289</sup> ... by a taxable person in the course or furtherance of any business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Commissioners may impose for the protection of the revenue, without payment of the VAT chargeable on the importation, and for that VAT to be accounted for together with the VAT chargeable on the supply of goods or services by him<sup>F290</sup> ....

#### Textual Amendments

- F289** Words in s. 38 omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 40(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, **reg. 4(b)** (with reg. 7)
- F290** Words in s. 38 omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 40(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I.

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2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### **[<sup>F291</sup>39 Repayment of VAT to those in business overseas.**

- [<sup>F291</sup>(1) The Commissioners may, by means of a scheme embodied in regulations, provide for the repayment, to persons carrying on business wholly outside the United Kingdom, of VAT which would be input tax of theirs if they were taxable persons in the United Kingdom.
- (2) The scheme may make different provision in relation to persons carrying on business in different places.]
- (3) Repayment shall be made in such cases [<sup>F292</sup>and to such extent] only, and subject to such conditions, as the scheme may prescribe (being conditions specified in the regulations or imposed by the Commissioners either generally or in particular cases); and the scheme may provide—
- [<sup>F293</sup>(za) for claims to be made in such form and manner as may be specified in the scheme or by the Commissioners in accordance with the scheme;]
- (a) for claims and repayments to be made only through agents in the United Kingdom;
- (b) either generally or for specified purposes—
- (i) for the agents to be treated under this Act as if they were taxable persons; and
- (ii) for treating claims as if they were returns under this Act [<sup>F294</sup>in respect of such period as may be prescribed] and repayments as if they were repayments of input tax, <sup>F295</sup>...
- [<sup>F296</sup>(ba) for and in connection with the payment of interest to or by the Commissioners (including in relation to the repayment of interest wrongly paid), and]
- [<sup>F297</sup>(c) for generally regulating—
- (i) the time by which claims must be made, and
- (ii) the methods by which the amount of any repayment is to be determined and the repayment is to be made.]]

#### **Textual Amendments**

- F291** S. 39(1)(2) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 41](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F292** Words in s. 39(3) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 77\(2\)\(a\)](#)
- F293** S. 39(3)(za) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 5\(2\)](#)
- F294** Words in s. 39(3)(b)(ii) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 77\(2\)\(b\)](#)
- F295** Word in s. 39(3)(b)(ii) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\), s. 77\(2\)\(b\)](#)
- F296** S. 39(3)(ba) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), s. 77\(2\)\(c\)](#)
- F297** S. 39(3)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 5\(3\)](#)

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### 39A Applications for forwarding of VAT repayment claims to other member States

[<sup>F298</sup>The Commissioners must make arrangements for dealing with applications made to the Commissioners by taxable persons, in accordance with Council Directive 2008/9/EC, for the forwarding to the tax authorities of another member State of claims for refunds of VAT on—

- (a) supplies to them in that member State, or
- (b) the importation of goods by them into that member State from places outside the member States.]

#### Textual Amendments

**F298** S. 39A omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 42](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### Modifications etc. (not altering text)

**C30** S. 39A savings and transitional provisions for effects of 2018 c. 22, Sch. 8 para. 42 (31.12.2020) by [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1495\)](#), regs. 1(2), **11(5)**; S.I. 2020/1641, reg. 2, Sch.

### <sup>F299</sup>40 Refunds in relation to new means of transport supplied to other member States.

.....

#### Textual Amendments

**F299** S. 40 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 43](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

## PART III

### APPLICATION OF ACT IN PARTICULAR CASES

#### [<sup>F300</sup>40A Northern Ireland Protocol

- (1) Schedule 9ZA—
  - (a) makes provision about a charge to VAT on acquisitions of goods in Northern Ireland from a member State, and
  - (b) contains modifications of the other provisions of this Act in connection with the movement of goods between Northern Ireland and member States.
- (2) Schedule 9ZB—
  - (a) makes provision about VAT charged on goods imported into the United Kingdom as a result of their entry into Northern Ireland,

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- (b) makes provision about the treatment, for the purposes of VAT, of goods that are removed from Northern Ireland to Great Britain and goods that are removed from Great Britain to Northern Ireland, and
  - (c) contains other provision relevant to the application of this Act in Northern Ireland.
- [ Schedule 9ZC makes provision, as a result of the Protocol on Ireland/Northern Ireland
- <sup>F301</sup>(3) in the EU withdrawal agreement, about the application of this Act in cases involving—
- (a) supplies of goods by persons established outside the United Kingdom that are facilitated by online marketplaces, and
  - (b) the importation of goods of a low value.]
- [ Schedule 9ZD—
- <sup>F302</sup>(4) (a) establishes a special accounting scheme (“the OSS scheme”) for use by persons making intra-Community distance sales of goods from Northern Ireland to member States, and
- (b) makes provision about corresponding schemes in member States.
- (5) Schedule 9ZE—
- (a) establishes a special accounting scheme (“the IOSS scheme”) for use by persons supplying imported goods to Northern Ireland or into the European Union, and
  - (b) makes provision about corresponding schemes in member States.
- (6) Schedule 9ZF makes provision modifying other provisions of this Act and other enactments in connection with the provision made in Schedules 9ZD and 9ZE.
- (7) The Treasury may by regulations—
- (a) amend Schedules 9ZD and 9ZE, and
  - (b) amend Parts 1 and 2 of Schedule 9ZF,
- (including by inserting provision modifying any provision of an Act whenever passed or made).
- (8) The Commissioners may by regulations—
- (a) amend Part 3 of Schedule 9ZF (including by inserting provision modifying any provision of an Act whenever passed or made), and
  - (b) make such further provision as they consider appropriate about the administration, collection or enforcement of value added tax due under Schedules 9ZD and 9ZE.
- (9) Regulations under subsections (7) and (8) may—
- (a) confer on a person specified in the regulations a discretion to do anything under, or for the purposes of, the regulations;
  - (b) make provision by reference to things specified in a notice published in accordance with the regulations;
  - (c) make consequential, transitional, transitory, saving, supplementary or incidental provision.]]

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### Textual Amendments

- F300** S. 40A inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), **ss. 3(1), 11(1)(e)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F301** S. 40A(3) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 26** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**
- F302** S. 40A(4)-(9) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), **Sch. 18 para. 5**; S.I. 2021/770, **reg. 3**

## 41 Application to the Crown.

- (1) This Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.

<sup>F303</sup>(2) .....

- (3) Where VAT is chargeable on the supply of goods or services to a Government department<sup>F304</sup>... or on the importation of any goods by a Government department<sup>F305</sup>... and the supply<sup>F306</sup>... or importation is not for the purpose—

- (a) of any business carried on by the department, or  
(b) of a supply by the department which, by virtue of [<sup>F307</sup>section 41A,] is treated as a supply in the course or furtherance of a business,

then, if and to the extent that the Treasury so direct and subject to subsection (4) below, the Commissioners shall, on a claim made by the department at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the VAT so chargeable.

- (4) The Commissioners may make the refunding of any amount due under subsection (3) above conditional upon compliance by the claimant with requirements with respect to the keeping, preservation and production of records relating to the supply<sup>F308</sup>... or importation in question.

- (5) For the purposes of this section goods or services obtained by one Government department from another Government department shall be treated, if and to the extent that the Treasury so direct, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.

- (6) In this section “Government department” includes [<sup>F309</sup>the Scottish Administration][<sup>F310</sup>, the [<sup>F311</sup>Welsh Assembly Government],] a Northern Ireland department, a Northern Ireland health and social services body, any body of persons exercising functions on behalf of a Minister of the Crown, including <sup>F312</sup>... any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.

- (7) For the purposes of subsection (6) [<sup>F313</sup>each of the following is to be regarded as a body of persons exercising functions on behalf of a Minister of the Crown][<sup>F314</sup>—

- (a) [<sup>F315</sup>a health service body as defined in section 60(7) of the National Health Service and Community Care Act 1990,

- [<sup>F316</sup>(b)] a National Health Service trust established under Part I of that Act] or the <sup>M11</sup>National Health Service (Scotland) Act 1978 [<sup>F317</sup>,

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- (c) [<sup>F318</sup> an NHS foundation trust][<sup>F319</sup><sup>F320</sup>,
  - (d) a Primary Care Trust][<sup>F321</sup><sup>F322</sup>,
  - (e) a Local Health Board][<sup>F323</sup><sup>F324</sup>,
  - (f) a clinical commissioning group,
  - [<sup>F325</sup>(g) the Health and Social Care Information Centre,
  - [<sup>F326</sup>(h) the National Health Service Commissioning Board][<sup>F327</sup>,
  - (i) the National Institute for Health and Care Excellence][<sup>F328</sup>,
  - [<sup>F329</sup>(j) Health Education England (established by the Care Act 2014), <sup>F330</sup> ...
  - [<sup>F331</sup>(k) the Health Research Authority (also established by that Act),]
  - [<sup>F332</sup>(l) a strategic highways company appointed under section 1 of the Infrastructure Act 2015.]
- (8) In subsection (6) “a Northern Ireland health and social services body” means—
- (a) a health and social services body as defined in Article 7(6) of the <sup>M12</sup>Health and Personal Social Services (Northern Ireland) Order 1991; and
  - (b) a Health and Social Services trust established under that Order.

#### Textual Amendments

- F303** S. 41(2) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\), s. 198\(2\)\(a\)](#)
- F304** Words in s. 41(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 44\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F305** Words in s. 41(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 44\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F306** Word in s. 41(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 44\(2\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F307** Words in s. 41(3)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), s. 198\(2\)\(b\)](#)
- F308** Word in s. 41(4) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 44\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F309** Words in s. 41(6) inserted (6.5.1999) by 1998 c. 46, s. 125, [Sch. 8 para. 30](#) (with s. 126(3)); S.I. 1998/3178, art. 2(2), [Sch. 3](#)
- F310** Words in s. 41(6) inserted (1.4.1999) by 1998 c. 38, s. 125, [Sch. 12 para. 35](#) (with ss. 139(2), 143(2)); S.I. 1999/782, [art. 2](#)
- F311** Words in s. 41(6) substituted by [Government of Wales Act 2006 \(c. 32\)](#), ss. 160, 163, Sch. 10 para. 39 (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(4)(5) of the amending Act.

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- F312** Words in s. 41(6) omitted (8.2.2000) by virtue of S.I. 2000/90, art. 3(1), **Sch. 1 para. 29(a)** (with art. 2(5))
- F313** Words in s. 41(7) inserted (1.4.2015) by Finance Act 2015 (c. 11), **s. 67(1)(a)(2)**
- F314** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(a)**
- F315** Words in s. 41(7) substituted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 29(b)** (with art. 2(5))
- F316** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(b)**
- F317** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(c)**
- F318** Words in s. 41(7) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 33(3)**, 199(1), (4); S.I. 2004/759, art. 2
- F319** Words in s. 41(7) inserted (1.4.2000 (E.W.) otherwise 11.5.2001) by 1999 c. 8, s. 65, **Sch. 4 para. 86**; S.I. 1999/2342, **art. 2(4)(b)(iii)**; S.I. 2001/1985, **art. 2(4)**
- F320** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(d)**
- F321** Words in s. 41(7) inserted (10.10.2002 for W., 1.3.2007 in so far as not already in force, immediately before the National Health Service Act 2006 comes into force) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 42(3), **Sch. 5 para. 40**; S.I. 2002/2532, art. 2, Sch.; S.I. 2006/1407, art. 1(1), **Sch. 1 para. 12** (with art. 4)
- F322** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(e)**
- F323** Words in s. 41(7) inserted (retrospective to 1.4.2013) by Finance Act 2013 (c. 29), **s. 191(1)(2)**
- F324** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(f)**
- F325** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(g)**
- F326** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(h)**
- F327** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(i)**
- F328** Words in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(1)**
- F329** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(j)**
- F330** Word in s. 41(7) omitted (1.4.2015) by virtue of Finance Act 2015 (c. 11), **s. 67(1)(b)(2)**
- F331** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), **s. 107(2)(k)(l)**
- F332** S. 41(7)(l) substituted for words (1.4.2015) by Finance Act 2015 (c. 11), **s. 67(1)(c)(2)**

#### Modifications etc. (not altering text)

- C31** S. 41 modified (2.12.1999) by S.I. 1999/3145, **art. 8**; S.I. 1999/3208, **art. 2**

#### Marginal Citations

- M11** 1978 c. 29.  
**M12** S.I.1991/194.

### [<sup>F333</sup>41A Supply of goods or services by public bodies

- (1) This section applies where goods or services are supplied by a [<sup>F334</sup>public authority] in the course of activities or transactions in which it is engaged as a public authority.
- [<sup>F335</sup>(2) Unless the supply is on such a small scale as to be negligible, it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business if it is in respect of any of the following activities—
- (a) telecommunications services,
  - (b) supply of water, gas, electricity or thermal energy,
  - (c) transport of goods,
  - (d) port or airport services,
  - (e) passenger transport,
  - (f) supply of new goods manufactured for sale,
  - (g) engaging in transactions in respect of agricultural products in the exercise of regulatory functions,



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- (h) organisation of trade fairs or exhibitions,
- (i) warehousing,
- (j) activities of commercial publicity bodies,
- (k) activities of travel agents,
- (l) running of staff shops, cooperatives, industrial canteens, or similar institutions, or
- (m) activities carried out by radio and television bodies which are of a commercial nature.]

(3) If the supply is not in respect of such an activity, it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business if (and only if) not charging VAT on the supply would lead to a significant distortion of competition.

<sup>F336</sup>(4)] .....

#### Textual Amendments

**F333** S. 41A inserted (17.7.2012) by Finance Act 2012 (c. 14), s. 198(3)

**F334** Words in s. 41A(1) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 45(2) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F335** S. 41A(2) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 45(3) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F336** S. 41A(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 45(4) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### 42 Local authorities.

A local authority which makes taxable supplies is liable to be registered under this Act, whatever the value of the supplies; and accordingly Schedule 1 shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year does not exceed the sum for the time being specified in paragraph 1(1)(a) of that Schedule, as if that value exceeded that sum.

#### 43 Groups of companies.

- (1) Where under [<sup>F337</sup>sections 43A to 43D] any [<sup>F338</sup>persons] are treated as members of a group, any business carried on by a member of the group shall be treated as carried on by the representative member, and—
- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded; and
  - (b) any [<sup>F339</sup>supply which is a supply to which paragraph (a) above does not apply and is a supply] of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and
- <sup>F340</sup>(c) any VAT paid or payable by a member of the group on the importation of goods shall be treated as paid or payable by the representative member and the

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goods shall be treated, for the purposes of sections 38 and 73(7), as imported by the representative member;]

and all members of the group shall be liable jointly and severally for any VAT due from the representative member.

[<sup>F341</sup>(1AA) Where—

- (a) it is material, for the purposes of any provision made by or under this Act (“the relevant provision”), whether the person by or to whom a supply is made, or the person by whom goods are <sup>F342</sup>... imported, is a person of a particular description,
- (b) paragraph (b) or (c) of subsection (1) above applies to any supply <sup>F343</sup>... or importation, and
- (c) there is a difference that would be material for the purposes of the relevant provision between—
  - (i) the description applicable to the representative member, and
  - (ii) the description applicable to the [<sup>F344</sup>person who] (apart from this section) would be regarded for the purposes of this Act as making the supply <sup>F345</sup>... or importation or, as the case may be, as being the person to whom the supply is made,

the relevant provision shall have effect in relation to that supply <sup>F346</sup>... or importation as if the only description applicable to the representative member were the description in fact applicable to that [<sup>F347</sup>person].

(1AB) Subsection (1AA) above does not apply to the extent that what is material for the purposes of the relevant provision is whether a person is a taxable person.]

(1A) .....

- (2) An order under section 5(5) or (6) may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member [<sup>F348</sup>and may provide for that purpose that the representative member is to be treated as a person of such description as may be determined under the order.].

[<sup>F349</sup>(2A) A supply made by a member of a group (“the supplier”) to another member of the group (“the UK member”) shall not be disregarded under subsection (1)(a) above if—

- (a) it would (if there were no group) be a supply of services [<sup>F350</sup>to which section 7A(2)(a) applies made] to a person belonging in the United Kingdom;
- (b) those services are not within any of the descriptions specified in Schedule 9;
- (c) the supplier has been supplied (whether or not by a person belonging in the United Kingdom) with [<sup>F351</sup>any services <sup>F352</sup>... which do not fall within any of the descriptions specified in Schedule 9 [<sup>F353</sup>and section 7A(2)(a) applied to the supply];]
- (d) the supplier belonged outside the United Kingdom when it was supplied with the services mentioned in paragraph (c) above; and
- (e) the services so mentioned have been used by the supplier for making the supply to the UK member.

(2B) Subject to subsection (2C) below, where a supply is excluded by virtue of subsection (2A) above from the supplies that are disregarded in pursuance of subsection (1)(a) above, all the same consequences shall follow under this Act as if that supply—

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- (a) were a taxable supply in the United Kingdom by the representative member to itself, and
  - (b) without prejudice to that, were made by the representative member in the course or furtherance of its business.
- (2C) [<sup>F354</sup>Except in so far as the Commissioners may by regulations otherwise provide,] a supply which is deemed by virtue of subsection (2B) above to be a supply by the representative member to itself—
- (a) shall not be taken into account as a supply made by the representative member when determining any allowance of input tax under section 26(1) in the case of the representative member;
  - (b) shall be deemed for the purposes of paragraph 1 of Schedule 6 to be a supply in the case of which the person making the supply and the person supplied are connected within the meaning of [<sup>F355</sup>section 1122 of the Corporation Tax Act 2010] (connected persons); and
  - (c) subject to paragraph (b) above [<sup>F356</sup>and paragraph 8A of Schedule 6], shall be taken to be a supply the value and time of which are determined as if it were a supply of services which is treated by virtue of section 8 as made by the person by whom the services are received.
- (2D) For the purposes of subsection (2A) above where—
- (a) there has been a supply of the assets of a business of a person (“ the transferor ”) to a person to whom the whole or any part of that business was transferred as a going concern (“ the transferee ”),
  - (b) that supply is either—
    - (i) a supply falling to be treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services, or
    - (ii) a supply that would have fallen to be so treated if it had taken place in the United Kingdom,
- and
- (c) the transferor was supplied with services <sup>F357</sup>... at a time before the transfer when the transferor belonged outside the United Kingdom [<sup>F358</sup>and section 7A(2)(a) applied to the supply],
- those services, so far as they are used by the transferee for making any supply [<sup>F359</sup>to which section 7A(2)(a) applies,] shall be deemed to have been supplied to the transferee at a time when the transferee belonged outside the United Kingdom.
- (2E) Where, in the case of a supply of assets falling within paragraphs (a) and (b) of subsection (2D) above—
- (a) the transferor himself acquired any of the assets in question by way of a previous supply of assets falling within those paragraphs, and
  - (b) [<sup>F360</sup>there is a supply to which section 7A(2)(a) applies of services which, if used by the transferor for making such a supply,] would be deemed by virtue of that subsection to have been supplied to the transferor at a time when he belonged outside the United Kingdom,
- that subsection shall have effect, notwithstanding that the services have not been so used by the transferor, as if the transferor were a person to whom those services were supplied and as if he were a person belonging outside the United Kingdom at the time of their deemed supply to him; and this subsection shall apply accordingly through

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any number of successive supplies of assets falling within paragraphs (a) and (b) of that subsection.]

<sup>F361</sup>(3) .....

(4) .....

(5) .....

<sup>F362</sup>(5A) .....

(6) .....

(7) .....

(8) .....

[<sup>F363</sup>(9) Schedule 9A (which makes provision for ensuring that this section is not used for tax avoidance) shall have effect.]

#### Textual Amendments

**F337** Words in s. 43(1) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(3\)](#)

**F338** Word in s. 43(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 5\(2\)](#); S.I. 2019/1348, [reg. 2](#)

**F339** Words in s. 43(1)(b) substituted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by 1995 c. 4, [s. 25\(2\)\(5\)](#)

**F340** S. 43(1)(c) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, [regs. 1\(2\), 21](#)), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

**F341** S. 43(1AA)(1AB) inserted (with effect in relation to any supply made after 26.11.1996 and in relation to any acquisition or importation taking place after that date) by 1997 c. 16, [s. 40\(1\)\(3\)](#)

**F342** Words in s. 43(1AA)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, [regs. 1\(2\), 21](#)), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

**F343** Word in s. 43(1AA)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, [regs. 1\(2\), 21](#)), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

**F344** Words in s. 43(1AA)(c)(ii) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 5\(3\)\(a\)](#); S.I. 2019/1348, [reg. 2](#)

**F345** Word in s. 43(1AA)(c)(ii) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, [regs. 1\(2\), 21](#)), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

**F346** Word in s. 43(1AA) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(d\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, [regs. 1\(2\), 21](#)), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

**F347** Word in s. 43(1AA) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 5\(3\)\(b\)](#); S.I. 2019/1348, [reg. 2](#)

**F348** Words in s. 43(2) inserted (19.3.1997) by 1997 c. 16, [s. 40\(2\)](#)

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- F349** S. 43(2A)-(2E) inserted (with effect in relation to supplies made on or after 26.11.1996) by 1997 c. 16, s. 41(1)(2)
- F350** Words in s. 43(2A)(a) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(2)(a), 14(2) (with Sch. 36 paras. 14(2), 19)
- F351** Words in s. 43(2A) substituted (19.3.1997) by 1997 c. 16, s. 41(3)(4)
- F352** Words in s. 43(2A)(c) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 36 paras. 7(2)(b)(i), 14(2) (with Sch. 36 paras. 14(2), 19)
- F353** Words in s. 43(2A)(c) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(2)(b)(ii), 14(2) (with Sch. 36 paras. 14(2), 19)
- F354** Words in s. 43(2C) inserted (19.3.1997) by 1997 c. 16, s. 41(3)(5)
- F355** Words in s. 43(2C)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 285(a) (with Sch. 2)
- F356** Words in s. 43(2C)(c) inserted (with effect in accordance with s. 200(8) of the amending Act) by Finance Act 2012 (c. 14), s. 200(2)
- F357** Words in s. 43(2D)(c) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 36 paras. 7(3)(a)(i), 14(2) (with Sch. 36 paras. 14(2), 19)
- F358** Words in s. 43(2D)(c) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(3)(a)(ii), 14(2) (with Sch. 36 paras. 14(2), 19)
- F359** Words in s. 43(2D) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(3)(b), 14(2) (with Sch. 36 paras. 14(2), 19)
- F360** Words in s. 43(2E)(b) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(4), 14(2) (with Sch. 36 paras. 14(2), 19)
- F361** S 43(3)-(8) repealed (27.7.1999 with effect as mentioned in Sch. 2 para. 6 of the amending Act) by 1999 c. 16, ss. 16, 139, Sch. 2 para. 1(3), Sch. 20 Pt. II(1)
- F362** S. 43(5A) inserted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by 1995 c. 4, s. 25(4)(5)
- F363** S. 43(9) inserted (29.4.1996) by 1996 c. 8, s. 31(1)

**[43A** <sup>F364</sup>**Groups: eligibility.**

- (1) Two or more [<sup>F365</sup>UK bodies corporate] are eligible to be treated as members of a group if <sup>F366</sup>...—
  - (a) one of them controls each of the others,
  - (b) one person (whether a body corporate or an individual) controls all of them, or
  - (c) two or more individuals carrying on a business in partnership control all of them.

<sup>F367</sup>(2) .....

<sup>F368</sup>(3) .....

[ An individual carrying on a business and one or more UK bodies corporate are eligible <sup>F369</sup>(4) to be treated as members of a group if the individual—

- (a) controls the UK body corporate or all of the UK bodies corporate, and
- (b) is established, or has a fixed establishment, in the United Kingdom in relation to the business.

- (5) Two or more relevant persons carrying on a business in partnership (“the partnership”) and one or more UK bodies corporate are eligible to be treated as members of a group if the partnership—

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- (a) controls the UK body corporate or all of the UK bodies corporate, and
  - (b) is established, or has a fixed establishment, in the United Kingdom in relation to the business.
- (6) In this section—
- (a) “UK body corporate” means a body corporate which is established or has a fixed establishment in the United Kingdom;
  - (b) “relevant person” means an individual, a body corporate or a Scottish partnership.
- (7) Section 43AZA contains provision for determining for the purposes of this section whether a body corporate, individual or partnership controls a UK body corporate.]]

#### Textual Amendments

- F364** Ss. 43A-43C inserted (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 2**
- F365** Words in s. 43A(1) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 1(2)(a)**; S.I. 2019/1348, reg. 2
- F366** Words in s. 43A(1) omitted (1.11.2019) by virtue of Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 1(2)(b)**; S.I. 2019/1348, reg. 2
- F367** S. 43A(2) omitted (1.11.2019) by virtue of Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 1(3)**; S.I. 2019/1348, reg. 2
- F368** S. 43A(3) omitted (1.11.2019) by virtue of Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 1(3)**; S.I. 2019/1348, reg. 2
- F369** Ss. 43A(4)-(7) inserted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 1(4)**; S.I. 2019/1348, reg. 2

#### Modifications etc. (not altering text)

- C32** S. 43A modified (1.8.2004) by The Value Added Tax (Groups: eligibility) Order 2004 (S.I. 2004/1931), arts. 1, 2
- C33** Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 18 para. 45(3)**

#### [<sup>F370</sup> ~~43AZA~~ **Action 43A: control test**

- (1) This section applies for the purposes of section 43A (and expressions used in this section have the same meaning as in that section).
- (2) A body corporate (“X”) controls a UK body corporate if—
  - (a) X is empowered by statute to control the UK body corporate's activities, or
  - (b) X is the UK body corporate's holding company.
- (3) An individual (“Y”) controls a UK body corporate if Y would, were Y a company, be the UK body corporate's holding company.
- (4) Two or more relevant persons carrying on a business in partnership (“the partnership”) control a UK body corporate if the partnership would, were it a company, be the UK body corporate's holding company.
- (5) In this section “holding company” has the meaning given by section 1159 of, and Schedule 6 to, the Companies Act 2006.]

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#### Textual Amendments

**F370** S. 43AZA inserted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), [Sch. 18 para. 2](#); S.I. 2019/1348, reg. 2

#### [<sup>F371</sup>**43A** ~~Power to alter eligibility for grouping~~

- (1) The Treasury may by order provide for [<sup>F372</sup>sections 43A and 43AZA] to have effect with specified modifications in relation to a specified class of person.
- (2) An order under subsection (1) may, in particular—
  - (a) make provision by reference to generally accepted accounting practice;
  - (b) define generally accepted accounting practice for that purpose by reference to a specified document or instrument (and may provide for the reference to be read as including a reference to any later document or instrument that amends or replaces the first);
  - (c) adopt any statutory or other definition of generally accepted accounting practice (with or without modification);
  - (d) make provision by reference to what would be required or permitted by generally accepted accounting practice if accounts, or accounts of a specified kind, were prepared for a person.
- (3) An order under subsection (1) may also, in particular, make provision by reference to—
  - (a) the nature of a person;
  - (b) past or intended future activities of a person;
  - (c) the relationship between a number of persons;
  - (d) the effect of including a person within a group or of excluding a person from a group.
- (4) An order under subsection (1) may—
  - (a) make provision which applies generally or only in specified circumstances;
  - (b) make different provision for different circumstances;
  - (c) include supplementary, incidental, consequential or transitional provision.]

#### Textual Amendments

**F371** S. 43AA inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. 20(1)

**F372** Words in s. 43AA(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), [Sch. 18 para. 6](#); S.I. 2019/1348, reg. 2

#### Modifications etc. (not altering text)

**C33** Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 18 para. 45\(3\)](#)

#### [<sup>F373</sup>**43B** Groups: applications.

- (1) This section applies where an application is made to the Commissioners for two or more [<sup>F374</sup>persons, who] are eligible [<sup>F375</sup>by virtue of section 43A], to be treated as members of a group.

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- (2) This section also applies where two or more [<sup>F376</sup>persons] are treated as members of a group and an application is made to the Commissioners—
- (a) for another [<sup>F377</sup>person, who] is eligible [<sup>F378</sup>by virtue of section 43A] to be treated as a member of the group, to be treated as a member of the group,
  - (b) for a [<sup>F379</sup>person] to cease to be treated as a member of the group,
  - (c) for a member to be substituted as the group's representative member, or
  - (d) for the [<sup>F380</sup>persons] no longer to be treated as members of a group.
- (3) An application with respect to any [<sup>F381</sup>persons]—
- (a) must be made by one of them or by the person controlling them, and
  - (b) in the case of an application for the [<sup>F382</sup>persons] to be treated as a group, must appoint one of them as the representative member.
- (4) Where this section applies in relation to an application it shall, subject to subsection (6) below, be taken to be granted with effect from—
- (a) the day on which the application is received by the Commissioners, or
  - (b) such earlier or later time as the Commissioners may allow.
- (5) The Commissioners may refuse an application, within the period of 90 days starting with the day on which it was received by them, if it appears to them—
- (a) in the case of an application such as is mentioned in subsection (1) above, that the [<sup>F383</sup>persons] are not eligible [<sup>F384</sup>by virtue of section 43A] to be treated as members of a group,
  - (b) in the case of an application such as is mentioned in subsection (2)(a) above, that the [<sup>F385</sup>person] is not eligible [<sup>F386</sup>by virtue of section 43A] to be treated as a member of the group, or
  - (c) in any case, that refusal of the application is necessary for the protection of the revenue.
- (6) If the Commissioners refuse an application it shall be taken never to have been granted.]

#### Textual Amendments

- F373** Ss. 43A-43C inserted (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 2**
- F374** Words in s. 43B(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 7(2)**; [S.I. 2019/1348, reg. 2](#)
- F375** Words in s. 43B(1) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. 20(4)
- F376** Word in s. 43B(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 7(3)(a)**; [S.I. 2019/1348, reg. 2](#)
- F377** Words in s. 43B(2)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 7(3)(b)**; [S.I. 2019/1348, reg. 2](#)
- F378** Words in s. 43B(2)(a) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. 20(4)
- F379** Word in s. 43B(2)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 7(3)(c)**; [S.I. 2019/1348, reg. 2](#)
- F380** Word in s. 43B(2)(d) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 7(3)(d)**; [S.I. 2019/1348, reg. 2](#)
- F381** Word in s. 43B(3) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 7(4)(a)**; [S.I. 2019/1348, reg. 2](#)
- F382** Word in s. 43B(3)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 7(4)(b)**; [S.I. 2019/1348, reg. 2](#)



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**F383** Word in s. 43B(5)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 7\(5\)\(a\)](#); [S.I. 2019/1348, reg. 2](#)

**F384** Words in s. 43B(5)(a) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)

**F385** Word in s. 43B(5)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 7\(5\)\(b\)](#); [S.I. 2019/1348, reg. 2](#)

**F386** Words in s. 43B(5)(b) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)

**Modifications etc. (not altering text)**

**C33** Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 18 para. 45\(3\)](#)

[<sup>F387</sup>**43C Groups: termination of membership.**

- (1) The Commissioners may, by notice given to a [<sup>F388</sup>person], terminate its treatment as a member of a group from a date—
  - (a) which is specified in the notice, and
  - (b) which is, or falls after, the date on which the notice is given.
- (2) The Commissioners may give a notice under subsection (1) above only if it appears to them to be necessary for the protection of the revenue.
- (3) Where—
  - (a) a [<sup>F389</sup>person] is treated as a member of a group, and
  - (b) it appears to the Commissioners that the [<sup>F390</sup>person] is not, or is no longer, eligible [<sup>F391</sup>by virtue of section 43A] to be treated as a member of the group, the Commissioners shall, by notice given to the [<sup>F392</sup>person], terminate its treatment as a member of the group from a date specified in the notice.
- (4) The date specified in a notice under subsection (3) above may be earlier than the date on which the notice is given but shall not be earlier than—
  - (a) the first date on which, in the opinion of the Commissioners, the [<sup>F393</sup>person] was not eligible to be treated as a member of the group, or
  - (b) the date on which, in the opinion of the Commissioners, the [<sup>F394</sup>person] ceased to be eligible to be treated as a member of the group.]

**Textual Amendments**

**F387** Ss. 43A-43C inserted (27.7.1999) by [1999 c. 16, s. 16, Sch. 2 para. 2](#)

**F388** Word in s. 43C(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 8\(2\)](#); [S.I. 2019/1348, reg. 2](#)

**F389** Word in s. 43C(3)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 8\(3\)](#); [S.I. 2019/1348, reg. 2](#)

**F390** Word in s. 43C(3)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 8\(3\)](#); [S.I. 2019/1348, reg. 2](#)

**F391** Words in s. 43C(3)(b) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)

**F392** Word in s. 43C(3) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 8\(3\)](#); [S.I. 2019/1348, reg. 2](#)

**F393** Word in s. 43C(4)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 8\(4\)](#); [S.I. 2019/1348, reg. 2](#)

**F394** Word in s. 43C(4)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 8\(4\)](#); [S.I. 2019/1348, reg. 2](#)

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#### Modifications etc. (not altering text)

**C33** Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 18 para. 45\(3\)](#)

#### [<sup>F395</sup>43D Groups: duplication

- (1) A [<sup>F396</sup>person] may not be treated as a member of more than one group at a time.
- (2) A [<sup>F397</sup>person who] is a member of one group is not eligible by virtue of section 43A to be treated as a member of another group.
- (3) If—
  - (a) an application under section 43B(1) would have effect from a time in accordance with section 43B(4), but
  - (b) at that time one or more of the [<sup>F398</sup>persons] specified in the application is a member of a group (other than that to which the application relates),
 the application shall have effect from that time, but with the exclusion of the [<sup>F399</sup>person or persons] mentioned in paragraph (b).
- (4) If—
  - (a) an application under section 43B(2)(a) would have effect from a time in accordance with section 43B(4), but
  - (b) at that time the [<sup>F400</sup>person] specified in the application is a member of a group (other than that to which the application relates),
 the application shall have no effect.
- (5) Where a [<sup>F401</sup>person] is a subject of two or more applications under section 43B(1) or (2)(a) that have not been granted or refused, the applications shall have no effect.]

#### Textual Amendments

- F395** S. 43D inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [s. 20\(2\)](#)
- F396** Word in s. 43D(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 53\(2\)](#), [Sch. 18 para. 9\(2\)](#); [S.I. 2019/1348](#), [reg. 2](#)
- F397** Words in s. 43D(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 53\(2\)](#), [Sch. 18 para. 9\(3\)](#); [S.I. 2019/1348](#), [reg. 2](#)
- F398** Word in s. 43D(3)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 53\(2\)](#), [Sch. 18 para. 9\(4\)\(a\)](#); [S.I. 2019/1348](#), [reg. 2](#)
- F399** Word in s. 43D(3) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 53\(2\)](#), [Sch. 18 para. 9\(4\)\(b\)](#); [S.I. 2019/1348](#), [reg. 2](#)
- F400** Word in s. 43D(4)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 53\(2\)](#), [Sch. 18 para. 9\(5\)](#); [S.I. 2019/1348](#), [reg. 2](#)
- F401** Word in s. 43D(5) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), [s. 53\(2\)](#), [Sch. 18 para. 9\(6\)](#); [S.I. 2019/1348](#), [reg. 2](#)

#### Modifications etc. (not altering text)

**C33** Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 18 para. 45\(3\)](#)

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#### 44 Supplies to groups.

- (1) Subject to subsections (2) to (4) below, subsection (5) below applies where—
  - (a) a business, or part of a business, carried on by a taxable person is transferred as a going concern to a [<sup>F402</sup>person] treated as a member of a group under section 43;
  - (b) on the transfer of the business or part, chargeable assets of the business are transferred to the [<sup>F403</sup>person]; and
  - (c) the transfer of the assets is treated by virtue of section 5(3)(c) as neither a supply of goods nor a supply of services.
- (2) Subsection (5) below shall not apply if the representative member of the group is entitled to credit for the whole of the input tax on supplies to it and <sup>F404</sup>... importations by it—
  - (a) during the prescribed accounting period in which the assets are transferred, and
  - (b) during any longer period to which regulations under section 26(3)(b) relate and in which the assets are transferred.
- (3) Subsection (5) below shall not apply if the Commissioners are satisfied that the assets were assets of the taxable person transferring them more than 3 years before the day on which they are transferred.
- (4) Subsection (5) below shall not apply to the extent that the chargeable assets consist of capital items in respect of which regulations made under section 26(3) and (4), and in force when the assets are transferred, provide for adjustment to the deduction of input tax.
- (5) The chargeable assets shall be treated for the purposes of this Act as being, on the day on which they are transferred, both supplied to the representative member of the group for the purpose of its business and supplied by that member in the course or furtherance of its business.
- (6) A supply treated under subsection (5) above as made by a representative member shall not be taken into account as a supply made by him when determining the allowance of input tax in his case under section 26.
- (7) The value of a supply treated under subsection (5) above as made to or by a representative member shall be taken to be the open market value of the chargeable assets.
- (8) For the purposes of this section, the open market value of any chargeable assets shall be taken to be the price that would be paid on a sale (on which no VAT is payable) between a buyer and a seller who are not in such a relationship as to affect the price.
- (9) The Commissioners may reduce the VAT chargeable by virtue of subsection (5) above in a case where they are satisfied that the person by whom the chargeable assets are transferred has not received credit for the full amount of input tax arising on the supply to or <sup>F405</sup>... importation by him of the chargeable assets.
- (10) For the purposes of this section, assets are chargeable assets if their supply in the United Kingdom by a taxable person in the course or furtherance of his business would be a taxable supply (and not a zero-rated supply).

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### Textual Amendments

- F402** Word in s. 44(1)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), [Sch. 18 para. 10](#); S.I. 2019/1348, reg. 2
- F403** Word in s. 44(1)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), [Sch. 18 para. 10](#); S.I. 2019/1348, reg. 2
- F404** Words in s. 44(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\)](#), [Sch. 8 para. 47\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F405** Words in s. 44(9) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\)](#), [Sch. 8 para. 47\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

## 45 Partnerships.

- (1) The registration under this Act of persons—
- (a) carrying on a business in partnership, <sup>F406</sup>...
- <sup>F406</sup>(b) .....  
may be in the name of the firm; and no account shall be taken, in determining for any purpose of this Act whether goods or services are supplied to or by such persons <sup>F407</sup> ..., of any change in the partnership.
- (2) Without prejudice to section 36 of the <sup>M13</sup>Partnership Act 1890 (rights of persons dealing with firm against apparent members of firm), until the date on which a change in the partnership is notified to the Commissioners a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for VAT on the supply of goods or services by the partnership <sup>F408</sup> .....
- (3) Where a person ceases to be a member of a partnership during a prescribed accounting period (or is treated as so doing by virtue of subsection (2) above) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.
- (4) Without prejudice to section 16 of the <sup>M14</sup>Partnership Act 1890 (notice to acting partner to be notice to the firm) any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of subsection (1) above and is served in accordance with this Act shall be treated for the purposes of this Act as served on the partnership and, accordingly, where subsection (3) above applies, as served also on the former partner.
- (5) Subsections (1) and (3) above shall not affect the extent to which, under section 9 of the <sup>M15</sup>Partnership Act 1890, a partner is liable for VAT owed by the firm; but where a person is a partner in a firm during part only of a prescribed accounting period, his liability for VAT on the supply by the firm of goods or services during that accounting period <sup>F409</sup>... shall be such proportion of the firm's liability as may be just.

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### Textual Amendments

- F406** S. 45(1)(b) and word omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 48\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F407** Words in s. 45(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 48\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F408** Words in s. 45(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 48\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F409** Words in s. 45(5) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 48\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### Marginal Citations

- M13** 1890 c. 39.  
**M14** 1890 c. 39.  
**M15** 1890 c. 39.

## 46 Business carried on in divisions or by unincorporated bodies, personal representatives etc.

- (1) The registration under this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
- (2) The Commissioners may by regulations make provision for determining by what persons anything required by or under this Act to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club, association or organisation the affairs of which are managed by its members or a committee or committees of its members.
- (3) The registration under this Act of any such club, association or organisation may be in the name of the club, association or organisation; and in determining whether goods or services are supplied to or by such a club, association or organisation<sup>F410</sup> ..., no account shall be taken of any change in its members.
- (4) The Commissioners may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or has had his estate sequestrated or has become incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Act in cases where persons are so treated.
- (5) In relation to a company which is a taxable person, the reference in subsection (4) above to the taxable person having become bankrupt or having had his estate sequestrated or having become incapacitated shall be construed as a reference to its being in liquidation or receivership or [<sup>F411</sup>administration].

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F<sup>412</sup>(6) .....

#### Textual Amendments

- F410** Words in s. 46(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 49\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F411** Word in s. 46(5) substituted (15.9.2003) by [Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 25](#) (with art. 6)
- F412** S. 46(6) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 49\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### 47 Agents etc.

- [<sup>F413</sup>(1) Where goods are imported by a taxable person (“T”) who supplies them as agent for a person who is not a taxable person, then, if T acts in relation to the supply in T’s own name, the goods are to be treated for the purposes of this Act as imported and supplied by T as principal.]
- (2) For the purposes of subsection (1) above a person who is not resident in the United Kingdom and whose place or principal place of business is outside the United Kingdom may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.
- [<sup>F414</sup>(2A) Where, in the case of any supply of goods to which subsection (1) above does not apply, goods are supplied through an agent who acts in his own name, the supply shall be treated both as a supply to the agent and as a supply by the agent.]
- (3) Where <sup>F415</sup> . . . services [<sup>F416</sup>, other than electronically supplied services and telecommunication services,] are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.
- [<sup>F417</sup>(4) Where electronically supplied services or telecommunication services are supplied through an agent, [<sup>F418</sup>acting in the agent’s own name,] the supply is to be treated both as a supply to the agent and as a supply by the agent.
- F<sup>419</sup>(5) .....
- (6) In this section “electronically supplied services” and “telecommunication services” have the same meaning as in Schedule 4A (see paragraph 9(3) and (4) and [<sup>F420</sup>paragraph 9E(2)] of that Schedule).]

#### Textual Amendments

- F413** S. 47(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 50\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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- F414** S. 47(2A) inserted (1.5.1995 with effect as mentioned in s. 23(4)(b) of the amending Act) by 1995 c. 4, s. 23(2)
- F415** Words in s. 47(3) repealed (1.5.1995 with effect as mentioned in s. 23(4)(b) of the amending Act) by 1995 c. 4, ss. 23(3), 162, Sch. 29 Pt. VI(2) Note
- F416** Words in s. 47(3) inserted (with effect in accordance with s. 106(4) of the amending Act) by Finance Act 2014 (c. 26), s. 106(2)
- F417** S. 47(4)-(6) inserted (with effect in accordance with s. 106(4) of the amending Act) by Finance Act 2014 (c. 26), s. 106(3)
- F418** Words in s. 47(4) inserted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 50(3) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F419** S. 47(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 50(4) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F420** Words in s. 47(6) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Value Added Tax (Place of Supply of Services) (Telecommunication Services) Order 2017 (S.I. 2017/778), arts. 1(1), 5

#### 48 VAT representatives <sup>F421</sup>and security].

- (1) <sup>F422</sup>[Subsection (1ZA) applies where] any person—
- (a) is a taxable person for the purposes of this Act or, without being a taxable person, is a person who makes taxable supplies <sup>F423</sup>...;
  - <sup>F424</sup>[(b) is not established, and does not have any fixed establishment, in the United Kingdom;
  - (ba) is established in a country or territory in respect of which it appears to the Commissioners that the condition specified in subsection (1A) below is satisfied; and]
  - (c) in the case of an individual, does not have his usual place of residence <sup>F425</sup>or permanent address] in the United Kingdom,
- <sup>F426</sup>...

- <sup>F427</sup>(1ZA) The Commissioners may direct the person to secure that there is a UK-established person who is—
- (a) appointed to act on the person's behalf in relation to VAT, and
  - (b) registered against the name of the person in accordance with any regulations under subsection (4).]

- <sup>F428</sup>(1A) The condition mentioned in subsection (1)(ba) is that there are no arrangements in relation to the country or territory relating to VAT which—
- (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
  - (b) contain provision of a kind mentioned in subsection (2)(a) and (b) of that section.]

<sup>F428</sup>(1B) .....

- <sup>F429</sup>(2) With the agreement of the Commissioners, a person—
- (a) who has not been <sup>F430</sup>given a direction under subsection (1ZA)] , and

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- (b) in relation to whom the conditions specified in paragraphs (a), (b) and (c) of [F431 subsection (1)] are satisfied,  
may appoint [F432 a UK-established] person to act on his behalf in relation to VAT.
- (2A) In this Act “VAT representative” means a person appointed under subsection [F433 (1ZA)] or (2) above.]
- (3) Where any person is appointed by virtue of this section to be the VAT representative of another (“his principal”), then, subject to subsections (4) to (6) below, the VAT representative—
- (a) shall be entitled to act on his principal’s behalf for any of the purposes of this Act, of any other enactment (whenever passed) relating to VAT or of any subordinate legislation made under this Act or any such enactment;
  - (b) shall, subject to such provisions as may be made by the Commissioners by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Act, any such other enactment or any such subordinate legislation; and
  - (c) shall be personally liable in respect of—
    - (i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and
    - (ii) anything done for purposes connected with acting on his principal’s behalf,
 as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the VAT representative and his principal.
- (4) A VAT representative shall not be liable by virtue of subsection (3) above himself to be registered under this Act, but regulations made by the Commissioners may—
- (a) require the registration of the names of VAT representatives against the names of their principals in any register kept for the purposes of this Act; F434 ...
  - (b) make it the duty of a VAT representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.
- [F435 (c) give the Commissioners power to refuse to register a person as a VAT representative, or to cancel a person’s registration as a VAT representative, in such circumstances as may be specified in the regulations.]
- [F436 (4A) Regulations under subsection (4) may require a notification under that subsection to be made in such form and manner, and to contain such particulars, as may be specified in the regulations or by the Commissioners in accordance with the regulations.]
- (5) A VAT representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as—
- (a) the VAT representative has consented to, or connived in, the commission of the offence by his principal;
  - (b) the commission of the offence by his principal is attributable to any neglect on the part of the VAT representative; or
  - (c) the offence consists in a contravention by the VAT representative of an obligation which, by virtue of that subsection, is imposed both on the VAT representative and on his principal.



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- (6) The Commissioners may by regulations make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another's VAT representative; and regulations under this subsection may include such provision as the Commissioners think fit for the purposes of subsection (4) above with respect to the making or deletion of entries in any register.
- (7) <sup>F437</sup>The Commissioners may require a person in relation to whom the conditions specified in paragraphs (a), (b) and (c) of subsection (1) are satisfied] to provide such security, or further security, as they may think appropriate for the payment of any VAT which is or may become due from him.
- <sup>F438</sup>(7A) A sum required by way of security under subsection (7) above shall be deemed for the purposes of—
- (a) section 51 of the Finance Act 1997 (enforcement <sup>F439</sup>by taking control of goods or, in Northern Ireland,] by distress) and any regulations under that section, and
  - (b) section 52 of that Act (enforcement by diligence),
- to be recoverable as if it were VAT due from the person who is required to provide it.]
- <sup>F440</sup>(7B) A direction under subsection (1ZA)—
- (a) may specify a time by which it (or any part of it) must be complied with;
  - (b) may be varied;
  - (c) continues to have effect (subject to any variation) until it is withdrawn or the conditions specified in subsection (1) are no longer satisfied.
- (7C) A requirement under subsection (7)—
- (a) may specify a time by which it (or any part of it) must be complied with;
  - (b) may be varied;
  - (c) continues to have effect (subject to any variation) until it is withdrawn.]
- (8) For the purposes of this Act a person shall not be treated as having been directed to appoint a VAT representative, or as having been required to provide security under subsection (7) above, unless the Commissioners have either—
- (a) served notice of the direction or requirement on him; or
  - (b) taken all such other steps as appear to them to be reasonable for bringing the direction or requirement to his attention.
- <sup>F441</sup>(8A) For the purposes of subsections (1ZA) and (2)—
- (a) a person is UK-established if the person is established, or has a fixed establishment, in the United Kingdom, and
  - (b) an individual is also UK-established if the person's usual place of residence or permanent address is in the United Kingdom.]
- <sup>F442</sup>(9) . . . . .

**Textual Amendments**

- F421** Words in s. 48 heading inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(2\)](#)
- F422** Words in s. 48(1) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(3\)\(a\)](#)
- F423** Words in s. 48(1)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 51\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I.

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2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- F424** S. 48(1)(b)(ba) substituted for s. 48(1)(b) (31.12.2001) by 2001 c. 9, s. 100(1)(4)
- F425** Words in s. 48(1)(c) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(3)(b)
- F426** Words in s. 48(1) omitted (15.9.2016) by virtue of Finance Act 2016 (c. 24), s. 123(3)(c)
- F427** S. 48(1ZA) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(4)
- F428** S. 48(1A) substituted for s. 48(1A) (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 51(3) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F429** S. 48(2)(2A) substituted for s. 48(2) (31.12.2001) by 2001 c. 9, s. 100(3)(4)
- F430** Words in s. 48(2)(a) substituted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(6)(a)
- F431** Words in s. 48(2)(b) substituted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(6)(b)
- F432** Words in s. 48(2) substituted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(6)(c)
- F433** Word in s. 48(2A) substituted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(7)
- F434** Word in s. 48(4)(a) omitted (15.9.2016) by virtue of Finance Act 2016 (c. 24), s. 123(8)(a)
- F435** S. 48(4)(c) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(8)(b)
- F436** S. 48(4A) inserted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 29 para. 6(3)
- F437** Words in s. 48(7) substituted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(9)
- F438** S. 48(7A) inserted (1.7.1997) by 1997 c. 16, s. 53(6); S.I. 1997/1432, art. 2
- F439** Words in s. 48(7A) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 118 (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F440** S. 48(7B)(7C) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(10)
- F441** S. 48(8A) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 123(11)
- F442** S. 48(9) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 51(4) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### 49 Transfers of going concerns.

- (1) Where a business [<sup>F443</sup>, or part of a business,] carried on by a taxable person is transferred to another person as a going concern, then—
- (a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having carried on the business [<sup>F444</sup> or part of the business] before as well as after the transfer and supplies by the transferor shall be treated accordingly; <sup>F445</sup> ...
- <sup>F445</sup>(b) .....
- (2) Without prejudice to subsection (1) above, the Commissioners may by regulations make provision for securing continuity in the application of this Act in cases where a business [<sup>F446</sup>, or part of a business,] carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Act in substitution for the transferor.
- [<sup>F447</sup>(2A) Regulations under subsection (2) above may, in particular, provide for the duties under this Act of the transferor to preserve records relating to the business or part of the business for any period after the transfer to become duties of the transferee unless the Commissioners, at the request of the transferor, otherwise direct.]
- (3) Regulations under subsection (2) above may, in particular, provide—
- (a) for liabilities and duties under this Act (excluding sections 59 to 70) of the transferor [<sup>F448</sup>(other than the duties mentioned in subsection (2A) above)] to

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become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and

- (b) for any right of either of them to repayment or credit in respect of VAT to be satisfied by making a repayment or allowing a credit to the other;

but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

[<sup>F449</sup>(4) Subsection (5) below applies where—

- (a) a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, and  
(b) the transferor continues to be required under this Act to preserve for any period after the transfer any records relating to the business or part of the business.

(5) So far as is necessary for the purpose of complying with the transferee's duties under this Act, the transferee (“E”) may require the transferor—

- (a) to give to E, within such time and in such form as E may reasonably require, such information contained in the records as E may reasonably specify,  
(b) to give to E, within such time and in such form as E may reasonably require, such copies of documents forming part of the records as E may reasonably specify, and  
(c) to make the records available for E's inspection at such time and place as E may reasonably require (and permit E to take copies of, or make extracts from, them).

(6) Where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, the Commissioners may disclose to the transferee any information relating to the business when it was carried on by the transferor for the purpose of enabling the transferee to comply with the transferee's duties under this Act.]

#### Textual Amendments

**F443** Words in s. 49(1) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(2\)\(a\)](#)

**F444** Words in s. 49(1)(a) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(2\)\(b\)](#)

**F445** S. 49(1)(b) and word omitted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(2\)\(c\), Sch. 27 Pt. 6\(2\)](#)

**F446** Words in s. 49(2) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(3\)](#)

**F447** S. 49(2A) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(4\)](#)

**F448** Words in s. 49(3)(a) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(5\)](#)

**F449** S. 49(4)-(6) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(6\)](#)

## 50 Terminal markets.

- (1) The Treasury may by order make provision for modifying the provisions of this Act in their application to dealings on terminal markets and such persons ordinarily engaged

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in such dealings as may be specified in the order, subject to such conditions as may be so specified.

- (2) Without prejudice to the generality of subsection (1) above, an order under this section may include provision—
- (a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;
  - (b) for the registration under this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Act, and for disregarding such dealings between persons so represented for all the purposes of this Act;
  - (c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified,
- and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.
- (3) An order under this section may make different provision with respect to different terminal markets and with respect to different commodities.

#### <sup>F450</sup>50A Margin schemes.

- (1) The Treasury may by order provide, in relation to any such description of supplies to which this section applies as may be specified in the order, for a taxable person to be entitled to opt that, where he makes supplies of that description, VAT is to be charged by reference to the profit margin on the supplies, instead of by reference to their value.
- (2) This section applies to the following supplies, that is to say—
  - (a) supplies of works of art, antiques or collectors' items;
  - (b) supplies of motor vehicles;
  - (c) supplies of second-hand goods; and
  - (d) any supply of goods through a person who acts as an agent, but in his own name, in relation to the supply.
- (3) An option for the purposes of an order under this section shall be exercisable, and may be withdrawn, in such manner as may be required by such an order.
- (4) Subject to subsection (7) below, the profit margin on a supply to which this section applies shall be taken, for the purposes of an order under this section, to be equal to the amount (if any) by which the price at which the person making the supply obtained the goods in question is exceeded by the price at which he supplies them.
- (5) For the purposes of this section the price at which a person has obtained any goods and the price at which he supplies them shall each be calculated in accordance with the provisions contained in an order under this section; and such an order may, in particular, make provision stipulating the extent to which any VAT charged on a supply<sup>F451</sup>... or importation of any goods is to be treated as included in the price at which those goods have been obtained or are supplied.
- (6) An order under this section may provide that the consideration for any services supplied in connection with a supply of goods by a person who acts as an agent, but in his own name, in relation to the supply of the goods is to be treated for the purposes of any such order as an amount to be taken into account in computing the profit margin on

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the supply of the goods, instead of being separately chargeable to VAT as comprised in the value of the services supplied.

- (7) An order under this section may provide for the total profit margin on all the goods of a particular description supplied by a person in any prescribed accounting period to be calculated by—
- (a) aggregating all the prices at which that person obtained goods of that description in that period together with any amount carried forward to that period in pursuance of paragraph (d) below;
  - (b) aggregating all the prices at which he supplies goods of that description in that period;
  - (c) treating the total profit margin on goods supplied in that period as being equal to the amount (if any) by which, for that period, the aggregate calculated in pursuance of paragraph (a) above is exceeded by the aggregate calculated in pursuance of paragraph (b) above; and
  - (d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) above is exceeded by the aggregate calculated in pursuance of paragraph (a) above as an amount to be carried forward to the following prescribed accounting period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a) above.
- (8) An order under this section may—
- (a) make different provision for different cases; and
  - (b) make provisions of the order subject to such general or special directions as may, in accordance with the order, be given by the Commissioners with respect to any matter to which the order relates.]

#### Textual Amendments

**F450** S. 50A inserted (1.5.1995) by 1995 c. 4, s. 24(1)

**F451** Word in s. 50A(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 52 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

## 51 Buildings and land.

- (1) Schedule 10 shall have effect with respect to buildings and land.
- (2) The Treasury may by order amend Schedule 10.

### [<sup>F452</sup>51B Face-value vouchers [<sup>F453</sup>issued before 1 January 2019]

[ Schedule 10A shall have effect with respect to face-value vouchers.  
<sup>F454</sup>(1)]

[ Schedule 10A does not have effect with respect to a face value voucher (within the  
<sup>F455</sup>(2) meaning of that Schedule) issued on or after 1 January 2019.]]

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#### Textual Amendments

- F452** S. 51B inserted (with application in accordance with Sch. 1 para. 4 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 1 para. 1](#)
- F453** Words in s. 51B heading inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 17 para. 2\(a\)](#)
- F454** S. 51B(1): s. 51B renumbered as s. 51B(1) (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 17 para. 2\(b\)](#)
- F455** S. 51B(2) inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 17 para. 2\(c\)](#)

### [<sup>F456</sup>51C Vouchers issued on or after 1 January 2019

- (1) Schedule 10B makes provision about the VAT treatment of vouchers.
- (2) Schedule 10B has effect with respect to a voucher (within the meaning of that Schedule) issued on or after 1 January 2019.

#### Textual Amendments

- F456** Ss. 51C, 51D inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 17 para. 3](#)

### 51D Postage stamps issued on or after 1 January 2019

- (1) The issue of a postage stamp, and any subsequent transfer of it, is a supply of services for the purposes of this Act.
- (2) The consideration for the issue or subsequent transfer of a postage stamp is to be disregarded for the purposes of this Act, except to the extent (if any) that it exceeds the face value of the stamp.
- (3) The “face value” of the stamp is the amount stated on or recorded in the stamp or the terms and conditions governing its use.
- (4) This section has effect with respect to postage stamps issued on or after 1 January 2019.]

#### Textual Amendments

- F456** Ss. 51C, 51D inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 17 para. 3](#)

### 52 Trading stamp schemes.

The Commissioners may by regulations modify [<sup>F457</sup>section 19 and Schedule 6] for the purpose of providing (in place of the provision for the time being contained [<sup>F458</sup>in that section and Schedule]) for the manner of determining for the purposes of this Act the value of—

- (a) a supply of goods, <sup>F459</sup> ...
- <sup>F459</sup>(b) .....

in a case where the goods are supplied <sup>F460</sup> ... under a trading stamp scheme (within the meaning of the <sup>M16</sup>Trading Stamps Act 1964 or the <sup>M17</sup>Trading Stamps Act (Northern Ireland) 1965) <sup>F461</sup> .....

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### Textual Amendments

- F457** Words in s. 52 substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 53\(a\)\(i\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F458** Words in s. 52 substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 53\(a\)\(ii\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F459** S. 52(b) and word omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 53\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F460** Words in s. 52 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 53\(c\)\(i\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F461** Words in s. 52 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 53\(c\)\(ii\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

### Marginal Citations

- M16** 1964 c. 71.  
**M17** 1965 c. 6 (N.I.).

## 53 Tour operators.

- (1) The Treasury may by order modify the application of this Act in relation to supplies of goods or services by tour operators or in relation to such of those supplies as may be determined by or under the order.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may make provision—
  - (a) for two or more supplies of goods or services by a tour operator to be treated as a single supply of services;
  - (b) for the value of that supply to be ascertained, in such manner as may be determined by or under the order, by reference to the difference between sums paid or payable to and sums paid or payable by the tour operator;
  - (c) for account to be taken, in determining the VAT chargeable on that supply, of the different rates of VAT that would have been applicable apart from this section;
  - (d) excluding any [<sup>F462</sup>person] from the application of section 43;
  - (e) as to the time when a supply is to be treated as taking place.
- (3) In this section “tour operator” includes a travel agent acting as principal and any other person providing for the benefit of travellers services of any kind commonly provided by tour operators or travel agents.
- (4) Section 97(3) shall not apply to an order under this section, notwithstanding that it makes provision for excluding any VAT from credit under section 25.

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### Textual Amendments

**F462** Word in s. 53(2)(d) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 11](#); [S.I. 2019/1348, reg. 2](#)

## 54 Farmers etc.

- (1) The Commissioners may, in accordance with such provision as may be contained in regulations made by them, certify for the purposes of this section any person who satisfies them—
  - (a) that he is carrying on a business involving one or more designated activities;
  - (b) that he is of such a description and has complied with such requirements as may be prescribed; and
  - (c) where an earlier certification of that person has been cancelled, that more than the prescribed period has elapsed since the cancellation or that such other conditions as may be prescribed are satisfied.
- (2) Where a person is for the time being certified under this section, then (whether or not that person is a taxable person) so much of any supply by him of any goods or services as, in accordance with provision contained in regulations, is allocated to the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 1 <sup>F463</sup>or is, has become or has ceased to be liable to be registered under Schedule 1A].
- (3) The Commissioners may by regulations provide for an amount included in the consideration for any taxable supply which is made—
  - (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this section;
  - (b) at a time when that person is not a taxable person; and
  - (c) to a taxable person,
 to be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 25 and 26, as VAT on a supply to that person.
- (4) The amount which, for the purposes of any provision made under subsection (3) above, may be included in the consideration for any supply shall be an amount equal to such percentage as the Treasury may by order specify of the sum which, with the addition of that amount, is equal to the consideration for the supply.
- (5) The Commissioners' power by regulations under section 39 to provide for the repayment to persons to whom that section applies of VAT which would be input tax of theirs if they were taxable persons in the United Kingdom includes power to provide for the payment to persons to whom that section applies of sums equal to the amounts which, if they were taxable persons in the United Kingdom, would be input tax of theirs by virtue of regulations under this section; and references in that section, or in any other enactment, to a repayment of VAT shall be construed accordingly.
- (6) Regulations under this section may provide—
  - (a) for <sup>F464</sup>... an application for certification under this section, or for the cancellation of any such certification, <sup>F465</sup>to be made in the form and manner specified in the regulations or by the Commissioners in accordance with the regulations];



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- (b) for the cases and manner in which the Commissioners may cancel a person's certification;
  - (c) for entitlement to a credit such as is mentioned in subsection (3) above to depend on the issue of an invoice containing such particulars as may be prescribed, or as may be notified by the Commissioners in accordance with provision contained in regulations; and
  - (d) for the imposition on certified persons of obligations with respect to the keeping, preservation and production of such records as may be prescribed and of obligations to comply with such requirements with respect to any of those matters as may be so notified;
- and regulations made by virtue of paragraph (b) above may confer on the Commissioners power, if they think fit, to refuse to cancel a person's certification, and to refuse to give effect to any entitlement of that person to be registered, until the end of such period after the grant of certification as may be prescribed.
- (7) In this section references, in relation to any person, to the relevant part of his business are references—
- (a) where the whole of his business relates to the carrying on of one or more designated activities, to that business; and
  - (b) in any other case, to so much of his business as does so relate.

[<sup>F466</sup>(8) In this section “designated activities” means activities relating to farming, fisheries or forestry which are designated in an order made by the Treasury.]

#### Textual Amendments

**F463** Words in s. 54(2) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 4](#)

**F464** Words in s. 54(6)(a) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 7\(a\)](#)

**F465** Words in s. 54(6)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 7\(b\)](#)

**F466** S. 54(8) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 54](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

## 55 Customers to account for tax on supplies of gold etc.

[(1) Where any person makes a supply of gold to another person and that supply is a taxable supply but not a zero rated supply, the supply shall be treated for purposes of [<sup>F467</sup>Schedules 1 and 1A] —

- (a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and
- (b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business;

but nothing in paragraph (b) above shall require any supply to be disregarded for the purposes of [<sup>F468</sup>Schedule 1] on the grounds that it is a supply of capital assets of that other person's business.

(2) Where a taxable person makes a supply of gold to a person who—

- (a) is himself a taxable person at the time when the supply is made; and

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- (b) is supplied in connection with the carrying on by him of any business, it shall be for the person supplied, on the supplier's behalf, to account for and pay tax on the supply, and not for the supplier.
- (3) So much of this Act and of any other enactment or any subordinate legislation as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay VAT shall apply for the purposes of this section in relation to any person who is required under subsection (2) above to account for and pay any VAT as if that VAT were VAT on a supply made by him.
- (4) Section 6(4) to (10) shall not apply for determining when any supply of gold is to be treated as taking place.]
- (5) References in this section to a supply of gold are references to—
- [<sup>F469</sup>(a) any supply of goods consisting in fine gold, in gold grain of any purity or in gold coins of any purity; or]. . .
- (b) any supply of goods containing gold where the consideration for the supply (apart from any VAT) is, or is equivalent to, an amount which does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods [<sup>F470</sup>; or.
- (c) any supply of services consisting in the application to another person's goods of a treatment or process which produces goods a supply of which would fall within paragraph (a) above.]
- (6) The Treasury may by order provide for this section to apply, as it applies to the supplies specified in subsection (5) above, to such other supplies of—
- (a) goods consisting in or containing any precious or semi-precious metal or stones; or
- (b) services relating to, or to anything containing, any precious or semi-precious metal or stones,
- as may be specified or described in the order.

#### Textual Amendments

**F467** Words in s. 55(1) substituted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 5\(a\)](#)

**F468** Words in s. 55(1) substituted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 5\(b\)](#)

**F469** S. 55(5)(a) substituted (29.4.1996 with application in relation to any supply after 28.11.1995) by [1996 c. 8, s. 32\(1\)\(2\)](#)

**F470** S. 55(5)(c) inserted (29.4.1996 with application to supplies made on or after 1.1.1996) by [1996 c. 8, s. 29\(3\)\(5\)](#)

#### Modifications etc. (not altering text)

**C34** S. 55(1)-(4) applied (1.1.2000) by [S.I. 1999/3116, art. 4](#)

**C35** S. 55(2) excluded (1.1.2000) by [S.I. 1973/173, art. 7](#) (as added (1.1.2000) by [S.I. 1999/3117, art. 8](#))

[<sup>F471</sup>**55A Customers to account for tax on supplies of goods [<sup>F472</sup>or services] of a kind used in missing trader <sup>F473</sup>... fraud**

- (1) Subsection (3) applies if—

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- (a) a taxable (but not a zero-rated) supply of goods [<sup>F472</sup>or services] (“the relevant supply”) is made to a person (“the recipient”),
  - (b) the relevant supply is of goods [<sup>F472</sup>or services] to which this section applies (see subsection (9)),
  - (c) the relevant supply is not an excepted supply (see subsection (10)), and
  - (d) the total value of the relevant supply, and of corresponding supplies made to the recipient in the month in which the relevant supply is made, exceeds £1,000 (“the disregarded amount”).
- (2) For this purpose a “corresponding supply” means a taxable (but not a zero-rated) supply of goods [<sup>F472</sup>or services] which—
  - (a) is a supply of goods [<sup>F472</sup>or services] to which this section applies, and
  - (b) is not an excepted supply.
- (3) The relevant supply, and the corresponding supplies made to the recipient in the month in which the relevant supply is made, are to be treated for the purposes of [<sup>F474</sup>Schedules 1 and 1A]—
  - (a) as taxable supplies of the recipient (as well as taxable supplies of the person making them), and
  - (b) in so far as the recipient is supplied in connection with the carrying on by him of any business, as supplies made by him in the course or furtherance of that business,but the relevant supply, and those corresponding supplies, are to be so treated only in so far as their total value exceeds the disregarded amount.
- (4) Nothing in subsection (3)(b) requires any supply to be disregarded for the purposes of Schedule 1 on the grounds that it is a supply of capital assets of the recipient's business.
- (5) For the purposes of subsections (1) and (3), the value of a supply is determined on the basis that no VAT is chargeable on the supply.
- (6) If—
  - (a) a taxable person makes a supply of goods [<sup>F472</sup>or services] to a person (“the recipient”) at any time,
  - (b) the supply is of goods [<sup>F472</sup>or services] to which this section applies and is not an excepted supply, and
  - (c) the recipient is a taxable person at that time and is supplied in connection with the carrying on by him of any business,it is for the recipient, on the supplier's behalf, to account for and pay tax on the supply and not for the supplier.
- (7) The relevant enforcement provisions apply for the purposes of this section, in relation to any person required under subsection (6) to account for and pay any VAT, as if that VAT were VAT on a supply made by him.
- (8) For this purpose “the relevant enforcement provisions” means so much of—
  - (a) this Act and any other enactment, and
  - (b) any subordinate legislation,as has effect for the purposes of, or in connection with the enforcement of, any obligation to account for and pay VAT.

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- (9) For the purposes of this section, goods<sup>F472</sup> or services] are goods <sup>F472</sup>or services]to which this section applies if they are of a description specified in an order made by the Treasury.
- [ An order made under subsection (9) may modify the application of subsection (3) in <sup>F475</sup>(9A) relation to any description of goods or services specified in the order.]
- (10) For the purposes of this section, an “excepted supply” means a supply which is of a description specified in, or determined in accordance with, provision contained in an order made by the Treasury.
- (11) Any order made under subsection (10) may describe a supply of goods <sup>F472</sup>or services] by reference to—
- (a) the use which has been made of the goods <sup>F472</sup>or services], or
  - (b) other matters unrelated to the characteristics of the goods <sup>F472</sup>or services] themselves.
- (12) The Treasury may by order substitute for the sum for the time being specified in subsection (1)(d) such greater sum as they think fit.
- (13) The Treasury may by order make such amendments of any provision of this Act as they consider necessary or expedient for the purposes of this section or in connection with this section.
- An order under this subsection may confer power on the Commissioners to make regulations or exercise any other function, but no order may be made under this subsection on or after 22nd March 2009.
- (14) Any order made under this section (other than one under subsection (12)) may—
- (a) make different provision for different cases, and
  - (b) contain supplementary, incidental, consequential or transitional provisions.]

#### Textual Amendments

- F471** S. 55A inserted (1.6.2007) by [Finance Act 2006 \(c. 25\), s. 19\(1\)\(8\)](#); S.I. 2007/1419, art. 2
- F472** Words in s. 55A inserted (8.4.2010) by [Finance Act 2010 \(c. 13\), s. 50\(1\)](#)
- F473** Words in s. 55A omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 55](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F474** Words in s. 55A(3) substituted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 28 para. 6](#)
- F475** S. 55A(9A) inserted (12.2.2019) by [Finance Act 2019 \(c. 1\), s. 51](#)

#### Modifications etc. (not altering text)

- C36** S. 55A applied (1.7.2014) by [The Value Added Tax \(Section 55A\) \(Specified Goods and Excepted Supplies\) Order 2014 \(S.I. 2014/1458\)](#), arts. 1(2), **3(1)**, 4 (with art. 1(2))
- C37** S. 55A applied (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Section 55A\) \(Specified Services and Excepted Supplies\) Order 2016 \(S.I. 2016/12\)](#), arts. 1(2), **3(1)**
- C38** S. 55A applied (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Section 55A\) \(Specified Services\) Order 2019 \(S.I. 2019/1015\)](#), arts. 1(2), **3**, 4 (as amended (31.12.2021) by S.I. 2019/1346, [reg. 11\(2\)](#))

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- C39** S. 55A applied (1.10.2020) by [The Value Added Tax \(Section 55A\) \(Specified Services and Excepted Supplies\) Order 2019 \(S.I. 2019/892\)](#), arts. 1(2), **3(1)**, 4 (as amended by [S.I. 2019/1240](#), arts. 1, 2)
- C40** S. 55A(3) excluded (1.10.2020) by [The Value Added Tax \(Section 55A\) \(Specified Services and Excepted Supplies\) Order 2019 \(S.I. 2019/892\)](#), arts. 1(2), **10** (as amended by [S.I. 2019/1240](#), arts. 1, 2)

<sup>F476</sup>**56 Fuel for private use.**

.....

**Textual Amendments**

- F476** S. 56 omitted (with effect in accordance with Sch. 38 para. 7 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 38 para. 4**

<sup>F477</sup>**57 Determination of consideration for fuel supplied for private use.**

.....

**Textual Amendments**

- F477** S. 57 omitted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **Sch. 38 para. 4**

## PART IV

### ADMINISTRATION, COLLECTION AND ENFORCEMENT

#### *General administrative provisions*

**58 General provisions relating to the administration and collection of VAT.**

Schedule 11 shall have effect, subject to section [<sup>F478</sup>58ZA(5)(a)], with respect to the administration, collection and enforcement of VAT.

**Textual Amendments**

- F478** Word in s. 58 substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 56** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

[<sup>F479</sup>**58ZA**International VAT arrangements

- (1) The Commissioners may make regulations imposing obligations on taxable persons for the purpose of giving effect to international VAT arrangements.

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- (2) The regulations may require the submission to the Commissioners by taxable persons of statements containing such particulars of—
  - (a) relevant transactions in which the taxable persons are concerned, and
  - (b) the persons concerned in those transactions,
 as may be specified in the regulations.
- (3) The regulations may provide for statements about relevant transactions to be submitted at such times and intervals, in such cases and in such form and manner as may be specified—
  - (a) in the regulations, or
  - (b) by the Commissioners in accordance with the regulations.
- (4) A transaction is a “relevant transaction” for the purposes of this section if information about it could be relevant to any international VAT arrangements.
- (5) If any international VAT arrangements have effect—
  - (a) any Schedule 11 information power is exercisable with respect to matters that are relevant to those arrangements as it is exercisable with respect to matters that are relevant for any of the purposes of this Act, and
  - (b) any power of an officer of Revenue and Customs to obtain information or documents under any enactment or subordinate legislation relating to VAT is exercisable in relation to matters which are relevant to those arrangements.
- (6) The Commissioners may disclose information which is obtained as a result of subsection (5) (and no obligation of secrecy, whether imposed by statute or otherwise, prevents such disclosure) if—
  - (a) the disclosure is required in accordance with the international VAT arrangements, and
  - (b) the Commissioners are satisfied that the recipient is bound, or has undertaken, both to observe rules of confidentiality which are no less strict than those applying to the information in the United Kingdom and to use the information only for the purposes contemplated by the arrangements.
- (7) Powers are exercisable as a result of subsection (5) only if the Commissioners have given (and not withdrawn) a direction in writing authorising their use (either generally or in relation to specified cases).
- (8) The Commissioners may not make regulations under this section, or give a direction under subsection (7), unless they consider that making the regulations or giving the direction would facilitate the administration, collection or enforcement of VAT.
- (9) In this section—
 

“international VAT arrangements” means arrangements which—

  - (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
  - (b) relate to VAT or any tax corresponding to VAT imposed under the law of the territory, or any of the territories, in relation to which the arrangements have been made, and

“Schedule 11 information power” means any power of the Commissioners under Schedule 11 relating to—

  - (a) the keeping of accounts,

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- (b) the making of returns and the submission of other documents to the Commissioners,
- (c) the production, use and contents of invoices,
- (d) the keeping and preservation of records, and
- (e) the furnishing of information and the production of documents.]

#### Textual Amendments

**F479** S. 58ZA inserted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 57](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

#### [<sup>F480</sup>Disclosure of avoidance schemes

#### Textual Amendments

**F480** S. 58A and cross-heading inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004 \(c. 12\)](#), s. 19(2), [Sch. 2 para. 1](#); [S.I. 2004/1934](#), [art. 2](#)

### 58A Disclosure of avoidance schemes

Schedule 11A (which imposes disclosure requirements relating to the use of schemes for avoiding VAT) shall have effect.]

#### Modifications etc. (not altering text)

**C41** S. 58A modified (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. [66\(2\)\(4\)](#)

### [<sup>F481</sup>58B Payment by cheque

Regulations under section 95(1) of the Finance Act 2007 (payment by cheque) may, in particular, provide for a payment which is made by cheque in contravention of regulations under section 25(1) above to be treated as made when the cheque clears, as defined in the regulations under section 95(1) of that Act.]

#### Textual Amendments

**F481** S. 58B inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. [95\(8\)](#)

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### *Default surcharges and other penalties and criminal offences*

#### **59 The default surcharge.**

- (1) [<sup>F482</sup>Subject to subsection (1A) below] if, by the last day on which a taxable person is required in accordance with regulations under this Act to furnish a return for a prescribed accounting period—
- (a) the Commissioners have not received that return, or
  - (b) the Commissioners have received that return but have not received the amount of VAT shown on the return as payable by him in respect of that period,
- then that person shall be regarded for the purposes of this section as being in default in respect of that period.

[<sup>F483</sup>(1A) A person shall not be regarded for the purposes of this section as being in default in respect of any prescribed accounting period if that period is one in respect of which he is required by virtue of any order under section 28 to make any payment on account of VAT.]

- (2) Subject to subsections (9) and (10) below, subsection (4) below applies in any case where—
- (a) a taxable person is in default in respect of a prescribed accounting period; and
  - (b) the Commissioners serve notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period ending on the first anniversary of the last day of the period referred to in paragraph (a) above and beginning, subject to subsection (3) below, on the date of the notice.
- (3) If a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period and that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned, the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period and, accordingly, for the purposes of this section, that existing period and its extension shall be regarded as a single surcharge period.
- (4) Subject to subsections (7) to (10) below, if a taxable person on whom a surcharge liability notice has been served—
- (a) is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, and
  - (b) has outstanding VAT for that prescribed accounting period,
- he shall be liable to a surcharge equal to whichever is the greater of the following, namely, the specified percentage of his outstanding VAT for that prescribed accounting period and £30.
- (5) Subject to subsections (7) to (10) below, the specified percentage referred to in subsection (4) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods in respect of which the taxable person is in default during the surcharge period and for which he has outstanding VAT, so that—
- (a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent;
  - (b) in relation to the second such period, the specified percentage is 5 per cent;
  - (c) in relation to the third such period, the specified percentage is 10 per cent; and



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- (d) in relation to each such period after the third, the specified percentage is 15 per cent.
- (6) For the purposes of subsections (4) and (5) above a person has outstanding VAT for a prescribed accounting period if some or all of the VAT for which he is liable in respect of that period has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period; and the reference in subsection (4) above to a person's outstanding VAT for a prescribed accounting period is to so much of the VAT for which he is so liable as has not been paid by that day.
- (7) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a tribunal that, in the case of a default which is material to the surcharge—
- (a) the return or, as the case may be, the VAT shown on the return was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or VAT not having been so despatched,
- he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).
- (8) For the purposes of subsection (7) above, a default is material to a surcharge if—
- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
  - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (9) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and
  - (b) by reason of that conduct, the person concerned is assessed to a penalty under that section,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.
- (10) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.
- [<sup>F484</sup>(11) For the purposes of this section references to a thing's being done by any day include references to its being done on that day.]

#### Textual Amendments

**F482** Words in s. 59(1) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(3)

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- F483** S. 59(1A) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(3)
- F484** S. 59(11) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(4)

**Modifications etc. (not altering text)**

- C42** S. 59 modified by S.I. 1995/2518, reg. 40(5) (as inserted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004](#) (S.I. 2004/1675), regs. 1(1), 5)
- C43** S. 59 restricted (9.3.2021) by [Finance Act 2021](#) (c. 26), s. 99(2), [Sch. 19 para. 3](#)

**[<sup>F485</sup>59A Default surcharge: payments on account.**

- (1) For the purposes of this section a taxable person shall be regarded as in default in respect of any prescribed accounting period if the period is one in respect of which he is required, by virtue of an order under section 28, to make any payment on account of VAT and either—
- (a) a payment which he is so required to make in respect of that period has not been received in full by the Commissioners by the day on which it became due; or
  - (b) he would, but for section 59(1A), be in default in respect of that period for the purposes of section 59.
- (2) Subject to subsections (10) and (11) below, subsection (4) below applies in any case where—
- (a) a taxable person is in default in respect of a prescribed accounting period; and
  - (b) the Commissioners serve notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period which—
    - (i) begins, subject to subsection (3) below, on the date of the notice; and
    - (ii) ends on the first anniversary of the last day of the period referred to in paragraph (a) above.
- (3) If—
- (a) a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period, and
  - (b) that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned,
- the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period; and, accordingly, the existing period and its extension shall be regarded as a single surcharge period.
- (4) Subject to subsections (7) to (11) below, if—
- (a) a taxable person on whom a surcharge liability notice has been served is in default in respect of a prescribed accounting period,
  - (b) that prescribed accounting period is one ending within the surcharge period specified in (or extended by) that notice, and
  - (c) the aggregate value of his defaults in respect of that prescribed accounting period is more than nil,
- that person shall be liable to a surcharge equal to whichever is the greater of £30 and the specified percentage of the aggregate value of his defaults in respect of that prescribed accounting period.

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- (5) Subject to subsections (7) to (11) below, the specified percentage referred to in subsection (4) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods during the surcharge period which are periods in respect of which the taxable person is in default and in respect of which the value of his defaults is more than nil, so that—
- (a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent.;
  - (b) in relation to the second such period, the specified percentage is 5 per cent.;
  - (c) in relation to the third such period, the specified percentage is 10 per cent.; and
  - (d) in relation to each such period after the third, the specified percentage is 15 per cent.
- (6) For the purposes of this section the aggregate value of a person's defaults in respect of a prescribed accounting period shall be calculated as follows—
- (a) where the whole or any part of a payment in respect of that period on account of VAT was not received by the Commissioners by the day on which it became due, an amount equal to that payment or, as the case may be, to that part of it shall be taken to be the value of the default relating to that payment;
  - (b) if there is more than one default with a value given by paragraph (a) above, those values shall be aggregated;
  - (c) the total given by paragraph (b) above, or (where there is only one default) the value of the default under paragraph (a) above, shall be taken to be the value for that period of that person's defaults on payments on account;
  - (d) the value of any default by that person which is a default falling within subsection (1)(b) above shall be taken to be equal to the amount of any outstanding VAT less the amount of unpaid payments on account; and
  - (e) the aggregate value of a person's defaults in respect of that period shall be taken to be the aggregate of—
    - (i) the value for that period of that person's defaults (if any) on payments on account; and
    - (ii) the value of any default of his in respect of that period that falls within subsection (1)(b) above.
- (7) In the application of subsection (6) above for the calculation of the aggregate value of a person's defaults in respect of a prescribed accounting period—
- (a) the amount of outstanding VAT referred to in paragraph (d) of that subsection is the amount (if any) which would be the amount of that person's outstanding VAT for that period for the purposes of section 59(4); and
  - (b) the amount of unpaid payments on account referred to in that paragraph is the amount (if any) equal to so much of any payments on account of VAT (being payments in respect of that period) as has not been received by the Commissioners by the last day on which that person is required (as mentioned in section 59(1)) to make a return for that period.
- (8) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a tribunal—
- (a) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(a) above—
    - (i) that the payment on account of VAT was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners by the day on which it became due, or

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- (ii) that there is a reasonable excuse for the payment not having been so despatched,
- or
- (b) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(b) above, that the condition specified in section 59(7)(a) or (b) is satisfied as respects the default,
- he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).
- (9) For the purposes of subsection (8) above, a default is material to a surcharge if—
- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
- (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (10) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and
- (b) by reason of that conduct, the person concerned is assessed to a penalty under section 69,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.
- (11) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.
- (12) For the purposes of this section the Commissioners shall be taken not to receive a payment by the day on which it becomes due unless it is made in such a manner as secures (in a case where the payment is made otherwise than in cash) that, by the last day for the payment of that amount, all the transactions can be completed that need to be completed before the whole amount of the payment becomes available to the Commissioners.
- (13) In determining for the purposes of this section whether any person would, but for section 59(1A), be in default in respect of any period for the purposes of section 59, subsection (12) above shall be deemed to apply for the purposes of section 59 as it applies for the purposes of this section.
- (14) For the purposes of this section references to a thing's being done by any day include references to its being done on that day.]

#### Textual Amendments

**F485** S. 59A inserted (29.4.1996 with application as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(2)

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**[<sup>F486</sup>59B Relationship between sections 59 and 59A.**

- (1) This section applies in each of the following cases, namely—
  - (a) where a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person (whether before or after the coming into force of section 59A) of a surcharge liability notice under section 59; and
  - (b) where a prescribed accounting period which is not a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person of a surcharge liability notice under section 59A.
- (2) In a case falling within subsection (1)(a) above section 59A shall have effect as if—
  - (a) subject to paragraph (b) below, the section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59A; but
  - (b) any question—
    - (i) whether a surcharge period was begun or extended by the notice, or
    - (ii) whether the taxable person was in default in respect of any prescribed accounting period which was not a section 28 accounting period but ended within the surcharge period begun or extended by that notice,were to be determined as it would be determined for the purposes of section 59.
- (3) In a case falling within subsection (1)(b) above section 59 shall have effect as if—
  - (a) subject to paragraph (b) below, the prescribed accounting period that is not a section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59;
  - (b) any question—
    - (i) whether a surcharge period was begun or extended by the notice, or
    - (ii) whether the taxable person was in default in respect of any prescribed accounting period which was a section 28 accounting period but ended within the surcharge period begun or extended by that notice,were to be determined as it would be determined for the purposes of section 59A; and
  - (c) that person were to be treated as having had outstanding VAT for a section 28 accounting period in any case where the aggregate value of his defaults in respect of that period was, for the purposes of section 59A, more than nil.
- (4) In this section “a section 28 accounting period”, in relation to a taxable person, means any prescribed accounting period ending on or after the day on which the Finance Act 1996 was passed in respect of which that person is liable by virtue of an order under section 28 to make any payment on account of VAT.]

**Textual Amendments**

**F486** S. 59B inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(5)

**[<sup>F487</sup>60 VAT evasion: conduct involving dishonesty.**

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**Textual Amendments**

**F487** S. 60 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 29\(d\), Sch. 27 Pt. 5\(5\)](#) (with transitional provisions in [S.I. 2009/511](#), art. 4(a)(i) and [S.I. 2009/571](#), art. 7); [S.I. 2008/568](#), art. 2(a)(b)(c)(d)(e)(f) (with arts. 3, 4)

**F488 61 VAT evasion: liability of directors etc.**

**Textual Amendments**

**F488** S. 61 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 29\(d\), Sch. 27 Pt. 5\(5\)](#) (with transitional provisions in [S.I. 2009/511](#), art. 4(a)(i) and [S.I. 2009/571](#), art. 7); [S.I. 2008/568](#), art. 2(a)(b)(c)(d)(e)(f) (with arts. 3, 4)

**62 Incorrect certificates as to zero-rating etc.**

- [<sup>F489</sup>(1) Subject to subsections (3) and (4) below, where—
- (a) a person to whom one or more supplies are, or are to be, made—
    - (i) gives to the supplier a certificate that the supply or supplies fall, or will fall, wholly or partly within [<sup>F490</sup>any of the Groups of Schedule 7A,] Group 5 or 6 of Schedule 8 or Group 1 of Schedule 9, or
    - (ii) gives to the supplier a certificate for the purposes of section 18B(2)(d) or 18C(1)(c),
  - and
  - (b) the certificate is incorrect,
- the person giving the certificate shall be liable to a penalty.

<sup>F491</sup>(1A) .....

- [ Where—
- <sup>F492</sup>(1B) (a) a person gives a certificate for the purposes of Note (5R) to Group 12 of Schedule 8 with respect to a supply of a motor vehicle, and
- (b) the certificate is incorrect,
- the person giving the certificate is to be liable to a penalty.

- (2) The amount of the penalty shall be equal to—
- (a) in a case where the penalty is imposed by virtue of subsection (1) above, the difference between—
    - (i) the amount of the VAT which would have been chargeable on the supply or supplies if the certificate had been correct; and
    - (ii) the amount of VAT actually chargeable;

<sup>F493</sup>(b) .....

- [ <sup>F494</sup>(c) in a case where it is imposed by virtue of subsection (1B), the difference between—

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- (i) the amount of the VAT which would have been chargeable on the supply if the certificate had been correct, and
- (ii) the amount of VAT actually chargeable.]]
- (3) The giving [<sup>F495</sup>or preparing] of a certificate shall not give rise to a penalty under this section if the person who gave [<sup>F496</sup>or prepared] it satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for his having given [<sup>F496</sup>or prepared] it.
- (4) Where by reason of giving [<sup>F495</sup>or preparing] a certificate a person is convicted of an offence (whether under this Act or otherwise), the giving of the certificate shall not also give rise to a penalty under this section.]

#### Textual Amendments

- F489** S. 62(1)(1A)(2) substituted (27.7.1999 with effect as mentioned in s. 17(2) of the amending Act) for s. 62(1)(2) by 1999 c. 16, s. 17(1)
- F490** Words in s. 62(1)(a)(i) substituted (11.5.2001 with effect as mentioned in s. 99(9)(b) of the amending Act) by 2001 c. 9, s. 99, Sch. 31 para. 3
- F491** S. 62(1A) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 58(2) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F492** S. 62(1B) inserted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by Finance Act 2017 (c. 10), Sch. 7 para. 3(2)
- F493** S. 62(2)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 58(3) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F494** S. 62(2)(c) inserted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by Finance Act 2017 (c. 10), Sch. 7 para. 3(3)
- F495** Words in s. 62(1)(3)(4) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 8(3); S.I. 1996/1249, art. 2
- F496** Words in s. 62(3) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, Sch. 3 para. 8(4); S.I. 1996/1249, art. 2

#### <sup>F497</sup>63 Penalty for misdeclaration or neglect resulting in VAT loss for one accounting period equalling or exceeding certain amounts.

#### Textual Amendments

- F497** S. 63 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by Finance Act 2007 (c. 11), s. 97(2), Sch. 24 para. 29(d), Sch. 27 Pt. 5(5) (with transitional provisions in S.I. 2009/511, art. 4(a)(i) and S.I. 2009/571, art. 7); S.I. 2008/568, art. 2(a)(b)(c)(d)(e)(f) (with arts. 3, 4)

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## <sup>F498</sup> 64 Repeated misdeclarations.

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### Textual Amendments

**F498** S. 64 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 29\(d\), Sch. 27 Pt. 5\(5\)](#) (with transitional provisions in [S.I. 2009/511](#), art. 4(a)(i) and [S.I. 2009/571](#), art. 7); [S.I. 2008/568](#), art. 2(a)(b)(c)(d)(e)(f) (with arts. 3, 4)

## 65 [<sup>F499</sup>Inaccuracies in section 55A statements]

(1) Where—

- (a) [<sup>F500</sup>a section 55A statement] containing a material inaccuracy has been submitted by any person to the Commissioners;
- (b) the Commissioners have, within 6 months of discovering the inaccuracy, issued that person with a written warning identifying that statement and stating that future inaccuracies might result in the service of a notice for the purposes of this section;
- (c) [<sup>F501</sup>another section 55A statement] containing a material inaccuracy (“the second inaccurate statement”) has been submitted by that person to the Commissioners;
- (d) the submission date for the second inaccurate statement fell within the period of 2 years beginning with the day after the warning was issued;
- (e) the Commissioners have, within 6 months of discovering the inaccuracy in the second inaccurate statement, served that person with a notice identifying that statement and stating that future inaccuracies will attract a penalty under this section;
- (f) yet [<sup>F502</sup>another section 55A statement] containing a material inaccuracy is submitted by that person to the Commissioners; and
- (g) the submission date for the statement falling within paragraph (f) above is not more than 2 years after the service of the notice or the date on which any previous statement attracting a penalty was submitted by that person to the Commissioners,

that person shall be liable to a penalty of £100 in respect of the statement so falling.

(2) Subject to subsections (3) and (4) below, [<sup>F503</sup>a section 55A statement] shall be regarded for the purposes of this section as containing a material inaccuracy if, having regard to the matters required to be included in the statement, the inclusion or omission of any information from the statement is misleading in any material respect.

(3) An inaccuracy contained in [<sup>F504</sup>a section 55A statement] shall not be regarded as material for the purposes of this section if—

- (a) the person who submitted the statement satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the inaccuracy; or
- (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, that person furnished the Commissioners with full information with respect to the inaccuracy.



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- (4) Where, by reason of the submission of a statement containing a material inaccuracy by any person, that person is convicted of an offence (whether under this Act or otherwise), the inaccuracy to which the conviction relates shall be regarded for the purposes of this section as not being material.
- (5) Where the only statement identified in a warning or notice served for the purposes of subsection (1)(b) or (e) above is one which (whether by virtue of either or both of subsections (3) and (4) above or otherwise) is regarded as containing no material inaccuracies, that warning or notice shall be deemed not to have been issued or served for those purposes.

[<sup>F505</sup>(6) In this section—

“section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11; and

“submission date”, in relation to a section 55A statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to them.]

<sup>F505</sup>(7) . . . . .

#### Textual Amendments

- F499** S. 65 heading substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(6\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F500** Words in s. 65(1)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F501** Words in s. 65(1)(c) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F502** Words in s. 65(1)(f) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(2\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F503** Words in s. 65(2) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F504** Words in s. 65(3) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F505** S. 65(6) substituted for s. 65(6)(7) (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(5\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

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**Modifications etc. (not altering text)**

C44 S. 65 modified (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), s. 80(11)

**66 [F506 Failure to submit section 55A statement]**

- (1) If, by the last day on which a person is required in accordance with regulations under this Act to submit [F507 a section 55A statement] for any prescribed period to the Commissioners, the Commissioners have not received that statement, that person shall be regarded for the purposes of this section as being in default in relation to that statement until it is submitted.
- (2) Where any person is in default in respect of [F508 any section 55A statement] the Commissioners may serve notice on him stating—
  - (a) that he is in default in relation to the statement specified in the notice;
  - (b) that (subject to the liability mentioned in paragraph (d) below) no action will be taken if he remedies the default before the end of the period of 14 days beginning with the day after the service of the notice;
  - (c) that if the default is not so remedied, that person will become liable in respect of his default to penalties calculated on a daily basis from the end of that period in accordance with the following provisions of this section; and
  - (d) that that person will become liable, without any further notices being served under this section, to penalties under this section if he commits any more defaults before a period of 12 months has elapsed without his being in default.
- (3) Where a person has been served with a notice under subsection (2) above, he shall become liable under this section—
  - (a) if the statement to which the notice relates is not submitted before the end of the period of 14 days beginning with the day after the service of the notice, to a penalty in respect of that statement; and
  - (b) whether or not that statement is so submitted, to a penalty in respect of [F509 any section 55A statement] the last day for the submission of which is after the service and before the expiry of the notice and in relation to which he is in default.
- (4) For the purposes of this section a notice served on any person under subsection (2) above shall continue in force—
  - (a) except in a case falling within paragraph (b) below, until the end of the period of 12 months beginning with the day after the service of the notice; and
  - (b) where at any time in that period of 12 months that person is in default in relation to [F510 any section 55A statement] other than one in relation to which he was in default when the notice was served, until a period of 12 months has elapsed without that person becoming liable to a penalty under this section in respect of [F510 any section 55A statement] .
- (5) The amount of any penalty to which a person who has been served with a notice under subsection (2) above is liable under this section shall be whichever is the greater of £50 and—
  - (a) in the case of a liability in respect of the statement to which the notice relates, a penalty of £5 for every day for which the default continues after the end of the period of 14 days mentioned in subsection (3)(a) above, up to a maximum of 100 days; and

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- (b) in the case of a liability in respect of any other statement, a penalty of the relevant amount for every day for which the default continues, up to a maximum of 100 days.
- (6) In subsection (5)(b) above “the relevant amount”, in relation to a person served with a notice under subsection (2) above, means—
  - (a) £5, where (that person not having been liable to a penalty under this section in respect of the statement to which the notice relates) the statement in question is the first statement in respect of which that person has become liable to a penalty while the notice has been in force;
  - (b) £10 where the statement in question is the second statement in respect of which he has become so liable while the notice has been in force (counting the statement to which the notice relates where he has become liable in respect of that statement); and
  - (c) £15 in any other case.
- (7) If a person who, apart from this subsection, would be liable to a penalty under this section satisfies the Commissioners or, on appeal a tribunal, that—
  - (a) [<sup>F511</sup>a section 55A statement] has been submitted at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit; or
  - (b) there is a reasonable excuse for such a statement not having been dispatched, he shall be treated for the purposes of this section and sections 59 to 65 and 67 to 71, 73<sup>F512</sup>... and 76 [<sup>F513</sup>and Schedule 24 to the Finance Act 2007] as not having been in default in relation to that statement and, accordingly, he shall not be liable to any penalty under this section [<sup>F514</sup>or that Schedule] in respect of that statement and any notice served under subsection (2) above exclusively in relation to the failure to submit that statement shall have no effect for the purposes of this section.
- (8) If it appears to the Treasury that there has been a change in the value of money since 1st January 1993 or, as the case may be, the last occasion when the sums specified in subsections (5) and (6) above were varied, they may by order substitute for the sums for the time being specified in those subsections such other sums as appear to them to be justified by the change; but an order under this section shall not apply to any default in relation to a statement the last day for the submission of which was before the order comes into force.
- [<sup>F515</sup>(9) In this section, “section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11.]
- [<sup>F515</sup>(10) .....

**Textual Amendments**

- F506** S. 66 heading substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 60\(8\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F507** Words in s. 66(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 60\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

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- F508** Words in s. 66(2) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F509** Words in s. 66(3)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F510** Words in s. 66(4)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F511** Words in s. 66(7)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(6)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F512** Word in s. 66(7) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F513** Words in s. 66(7) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), **Sch. 1 para. 13(a)**
- F514** Words in s. 66(7) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), **Sch. 1 para. 13(b)**
- F515** S. 66(9) substituted for s. 66(9)(10) (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**Modifications etc. (not altering text)**

- C45** S. 66 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 80(11)**

**F516 67 Failure to notify and unauthorised issue of invoices.**

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**Textual Amendments**

- F516** S. 67 omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(f)** (with transitional provisions in S.I. 2009/511, art. 4(a)(ii)); S.I. 2009/511, art. 2 (with art. 4)

**F517 67A Breach of controlled goods agreement**

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#### Textual Amendments

**F517** S. 67A omitted (6.4.2014) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), [Sch. 43 para. 4](#); S.I. 2014/906, art. 2

### 68 Breaches of walking possession agreements.

- (1) This section applies where—
- (a) in accordance with regulations under [<sup>F518</sup>section 51 of the Finance Act 1997 (enforcement by distress)], a distress is authorised to be levied on the goods and chattels of a person (a “person in default”) who has refused or neglected to pay any VAT due or any amount recoverable as if it were VAT due, and
  - (b) the person levying the distress and the person in default have entered into a walking possession agreement, as defined in subsection (2) below.
- (2) In this section a “walking possession agreement” means an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
- (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and
  - (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to subsection (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the VAT or other amount referred to in subsection (1)(a) above.
- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the breach in question.

[<sup>F519</sup>(5) This section extends only to Northern Ireland.]

#### Textual Amendments

**F518** Words in s. 68(1)(a) substituted (1.7.1997) by [1997 c. 16, s. 53\(7\)\(9\)](#); S.I. 1997/1432, art. 2

**F519** S. 68(5) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 120](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

### 69 Breaches of regulatory provisions.

- (1) If any person fails to comply with a regulatory requirement, that is to say, a requirement imposed under—
- (a) paragraph 11 or 12 of Schedule 1, [<sup>F520</sup>paragraph 7 of Schedule 1A]<sup>F521</sup>... [<sup>F522</sup>[<sup>F523</sup>[<sup>F524</sup>, paragraph 5 of Schedule 3A or paragraph 9(1) or (2)(a) of Schedule 4B]]]<sup>F523</sup>or paragraph 5 of Schedule 3A ]]; or
  - (b) any regulations made under section 48 requiring a VAT representative, for the purposes of registration, to notify the Commissioners that his appointment has taken effect or has ceased to have effect; or
- [<sup>F525</sup>(ba) paragraph 2(3B) of Schedule 11; or]

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- (c) paragraph 6(1) or 7 of Schedule 11; or
  - (d) any regulations or rules made under this Act, other than rules made under paragraph 9 of Schedule 12; or
  - (e) any order made by the Treasury under this Act; or
  - (f) any regulations made under the <sup>M18</sup>European Communities Act 1972 and relating to VAT, <sup>F526</sup>; or
  - (g) section 18A in the form of a condition imposed by the Commissioners under subsection (1) or (6) of that section, <sup>F527</sup>or—
  - (h) section 77E (display of VAT registration numbers on online marketplaces),]
- he shall be liable, subject to subsections (8) and (9) below and section 76(6), to a penalty equal to the prescribed rate multiplied by the number of days on which the failure continues (up to a maximum of 100) or, if it is greater, to a penalty of £50.
- (2) If any person fails to comply with a requirement to preserve records imposed under <sup>F528</sup>... paragraph 6(3) of Schedule 11, he shall be liable, subject to the following provisions of this section, to a penalty of £500.
- (3) Subject to subsection (4) below, in relation to a failure to comply with any regulatory requirement, the prescribed rate shall be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be—
- (a) if there has been no such previous occasion in that period, £5;
  - (b) if there has been only one such occasion in that period, £10; and
  - (c) in any other case, £15.
- (4) For the purposes of subsection (3) above—
- (a) a failure to comply with any regulatory requirement shall be disregarded if, as a result of the failure, the person concerned became liable for a surcharge under section 59 <sup>F529</sup>or 59A];
  - (b) a continuing failure to comply with any such requirement shall be regarded as one occasion of failure occurring on the date on which the failure began;
  - (c) if the same omission gives rise to a failure to comply with more than one such requirement, it shall nevertheless be regarded as the occasion of only one failure; and
  - (d) in relation to a failure to comply with a requirement imposed by regulations as to the furnishing of a return or as to the payment of VAT, a previous failure to comply with such a requirement as to either of those matters shall be regarded as a previous failure to comply with the requirement in question.
- (5) Where the failure referred to in subsection (1) above consists—
- (a) in not paying the VAT due in respect of any period within the time required by regulations under section 25(1), or
  - (b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 11,
- the prescribed rate shall be whichever is the greater of that which is appropriate under subsection (3)(a) to (c) above and an amount equal to one-sixth, one-third or one-half of 1 per cent. of the VAT due in respect of that period, the appropriate fraction being determined according to whether subsection (3)(a), (b) or (c) above is applicable.
- (6) For the purposes of subsection (5) above, the VAT due—

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- (a) if the person concerned has furnished a return, shall be taken to be the VAT shown in the return as that for which he is accountable in respect of the period in question, and
  - (b) in any other case, shall be taken to be such VAT as has been assessed for that period and notified to him under section 73(1).
- (7) If it appears to the Treasury that there has been a change in the value of money since 25th July 1985 or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sums for the time being specified in subsections (2) and (3)(a) to (c) above such other sums as appear to them to be justified by the change; but an order under this subsection shall not apply to a failure which began before the date on which the order comes into force.
- (8) A failure by any person to comply with any regulatory requirement or the requirement referred to in subsection (2) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the failure; and a failure in respect of which the Commissioners or tribunal have been so satisfied shall be disregarded for the purposes of subsection (3) above.
- (9) Where, by reason of conduct falling within subsection (1) or (2) above—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a surcharge under section 59 [<sup>F530</sup>or 59A], or
  - (c) a person is assessed to a penalty under section 60 or 63 [<sup>F531</sup>or a penalty under Schedule 24 to the Finance Act 2007],
- that conduct shall not also give rise to liability to a penalty under this section.
- (10) This section applies in relation to failures occurring before as well as after the commencement of this Act, and for that purpose any reference to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act.

#### Textual Amendments

- F520** Words in s. 69(1)(a) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 7](#)
- F521** Words in s. 69(1)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 61](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F522** Words in s. 69(1)(a) substituted (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by [2000 c. 17](#), s. 136(3)
- F523** Words in s. 69(1)(a) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 7\(2\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9
- F524** Words in s. 69(1)(a) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), s. 80(3)(a)
- F525** S. 69(1)(ba) inserted (1.6.2007) by [Finance Act 2006 \(c. 25\)](#), s. 19(5)(8); S.I. 2007/1419, art. 2
- F526** S. 69(1)(g) and word preceding it inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8](#), ss. 25, 26, [Sch. 3 para. 9](#); S.I. 1996/1249, art. 2
- F527** S. 69(1)(h) and word inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), s. 38(2)

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**F528** Words in s. 69(2) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of **Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), Sch. 2 para. 7(2)(b)** (with **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, reg. 9

**F529** Words in s. 69(4)(a) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(6)(8)

**F530** Words in s. 69(9)(b) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(6)(8)

**F531** Words in s. 69(9)(c) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), Sch. 1 para. 14

#### Modifications etc. (not altering text)

**C46** S. 69(1) modified (31.12.2020) by **The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 18** (with reg. 15); S.I. 2020/1641, reg. 2, Sch.

#### Marginal Citations

**M18** 1972 c. 68.

### [<sup>F532</sup> 69A Breach of record-keeping requirements etc. in relation to transactions in gold.

- (1) This section applies where a person fails to comply with a requirement of regulations under section 13(5)(a) or (b) of the <sup>M19</sup>Finance Act 1999 (gold: duties to keep records or provide information).

Where this section applies, the provisions of section 69 do not apply.

- (2) A person who fails to comply with any such requirement is liable to a penalty not exceeding 17.5% of the value of the transactions to which the failure relates.
- (3) For the purposes of assessing the amount of any such penalty, the value of the transactions to which the failure relates shall be determined by the Commissioners to the best of their judgement and notified by them to the person liable.
- (4) No assessment of a penalty under this section shall be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to their knowledge.
- (5) The reference in subsection (4) above to facts sufficient to justify the making of the assessment is to facts sufficient—
- to indicate that there had been a failure to comply with any such requirement as is referred to in subsection (1) above, and
  - to determine the value of the transactions to which the failure relates.
- (6) A failure by any person to comply with any such requirement as is mentioned in subsection (1) above shall not give rise to a liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal, that there is a reasonable excuse for the failure.
- (7) Where by reason of conduct falling within subsection (1) above a person—
- is assessed to a penalty under section 60 [<sup>F533</sup> or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007], or
  - is convicted of an offence (whether under this Act or otherwise),
- that conduct shall not also give rise to a penalty under this section.]



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#### Textual Amendments

**F532** S. 69A inserted (28.7.2000) by [2000 c. 17, s. 137\(2\)](#)

**F533** Words in s. 69A(7)(a) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\), art. 1\(1\), Sch. 1 para. 15](#)

#### Marginal Citations

**M19** [1999 c. 16.](#)

### [<sup>F534</sup> **69B Breach of record-keeping requirements imposed by directions**

- (1) If any person fails to comply with a requirement imposed under paragraph 6A(1) of Schedule 11, the person is liable to a penalty.
- (2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).
- (3) If any person fails to comply with a requirement to preserve records imposed under paragraph 6A(6) of Schedule 11, the person is liable to a penalty of £500.
- (4) If it appears to the Treasury that there has been a change in the value of money since—
  - (a) the day on which the Finance Act 2006 is passed, or
  - (b) (if later) the last occasion when the power conferred by this subsection was exercised,they may by order substitute for the sums for the time being specified in subsections (2) and (3) such other sums as appear to them to be justified by the change.
- (5) But any such order does not apply to a failure which began before the date on which the order comes into force.
- (6) A failure by any person to comply with any requirement mentioned in subsection (1) or (3) does not give rise to a liability to a penalty under this section if the person concerned satisfies—
  - (a) the Commissioners, or
  - (b) on appeal, a tribunal,that there is a reasonable excuse for the failure.
- (7) If by reason of conduct falling within subsection (1) or (3) a person—
  - (a) is assessed to a penalty under section 60 [<sup>F535</sup> or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007], or
  - (b) is convicted of an offence (whether under this Act or otherwise),that conduct does not also give rise to a penalty under this section.]

#### Textual Amendments

**F534** S. 69B inserted (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 21\(2\)](#)

**F535** Words in s. 69B(7)(a) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\), art. 1\(1\), Sch. 1 para. 16](#)

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## [<sup>F536</sup>69C Transactions connected with VAT fraud

- (1) A person (T) is liable to a penalty where—
  - (a) T has entered into a transaction involving the making of a supply by or to T (“the transaction”), and
  - (b) conditions A to C are satisfied.
- (2) Condition A is that the transaction was connected with the fraudulent evasion of VAT by another person (whether occurring before or after T entered into the transaction).
- (3) Condition B is that T knew or should have known that the transaction was connected with the fraudulent evasion of VAT by another person.
- (4) Condition C is that HMRC have issued a decision (“the denial decision”) in relation to the supply which—
  - (a) prevents T from exercising or relying on a VAT right in relation to the supply,
  - (b) is based on the facts which satisfy conditions A and B in relation to the transaction, and
  - (c) applies a relevant principle of EU case law (whether or not in circumstances that are the same as the circumstances in which any relevant case was decided by the European Court of Justice).
- (5) In this section “VAT right” includes the right to deduct input tax, the right to apply a zero rate to international supplies and any other right connected with VAT in relation to a supply.
- (6) The relevant principles of EU case law for the purposes of this section are the principles established by the European Court of Justice in the following cases—
  - (a) joined Cases C-439/04 and C-440/04 *Axel Kittel v. Belgian State; Belgium v. Recolta Recycling* (denial of right to deduct input tax), and
  - (b) Case C-273/11 (*b*) *Mecsek-Gabona Kft v Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága* (denial of right to zero rate),
 as developed or extended by that Court [<sup>F537</sup>in any other cases] relating to the denial or refusal of a VAT right in order to prevent abuses of the VAT system [<sup>F538</sup>which were decided before the coming into force of section 42 of TCTA 2018].
- (7) The penalty payable under this section is 30% of the potential lost VAT.
- (8) The potential lost VAT is—
  - (a) the additional VAT which becomes payable by T as a result of the denial decision,
  - (b) the VAT which is not repaid to T as a result of that decision, or
  - (c) in a case where as a result of that decision VAT is not repaid to T and additional VAT becomes payable by T, the aggregate of the VAT that is not repaid and the additional VAT.
- (9) Where T is liable to a penalty under this section the Commissioners may assess the amount of the penalty and notify it to T accordingly.
- (10) No assessment of a penalty under this section may be made more than two years after the denial decision is issued.
- (11) The assessment of a penalty under this section may be made immediately after the denial decision is made (and notice of the assessment may be given to T in the same document as the notice of the decision).

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- (12) Where by reason of actions involved in making a claim to exercise or rely on a VAT right in relation to a supply T—
- (a) is liable to a penalty for an inaccuracy under paragraph 1 of Schedule 24 to the Finance Act 2007 for which T has been assessed (and the assessment has not been successfully appealed against by T or withdrawn), or
  - (b) is convicted of an offence (whether under this Act or otherwise),
- those actions do not give rise to liability to a penalty under this section.

#### Textual Amendments

- F536** Ss. 69C-69E inserted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 68(2) (with s. 68(7))
- F537** Words in s. 69C(6) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 62(a) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F538** Words in s. 69C(6) inserted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 62(b) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### 69D Penalties under section 69C: officers' liability

- (1) Where—
- (a) a company is liable to a penalty under section 69C, and
  - (b) the actions of the company which give rise to that liability were attributable to an officer of the company (“the officer”),
- the officer is liable to pay such portion of the penalty (which may be equal to or less than 100%) as HMRC may specify in a notice given to the officer (a “decision notice”).
- (2) Before giving the officer a decision notice HMRC must—
- (a) inform the officer that they are considering doing so, and
  - (b) afford the officer the opportunity to make representations about whether a decision notice should be given or the portion that should be specified.
- (3) A decision notice—
- (a) may not be given before the amount of the penalty due from the company has been assessed (but it may be given immediately after that has happened), and
  - (b) may not be given more than two years after the denial decision relevant to that penalty was issued.
- (4) Where the Commissioners have specified a portion of the penalty in a decision notice given to the officer—
- (a) section 70 applies to the specified portion as to a penalty under section 69C,
  - (b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,
  - (c) section 76(9) applies as if the decision notice were an assessment notified under section 76, and
  - (d) a further decision notice may be given in respect of a portion of any additional amount assessed in an additional assessment.

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- (5) HMRC may not recover more than 100% of the penalty through issuing decision notices in relation to two or more persons.
- (6) A person is not liable to pay an amount by virtue of this section if the actions of the company concerned are attributable to the person by reference to conduct for which the person has been convicted of an offence.
- In this subsection “conduct” includes omissions.
- (7) In this section “company” means a body corporate or unincorporated association but does not include a partnership, a local authority or a local authority association.
- (8) In its application to a body corporate other than a limited liability partnership “officer” means—
- (a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006),
  - (b) a manager, or
  - (c) a secretary.
- (9) In its application to a limited liability partnership “officer” means a member.
- (10) In its application in any other case, “officer” means—
- (a) a director,
  - (b) a manager,
  - (c) a secretary, or
  - (d) any other person managing or purporting to manage any of the company's affairs.

#### Textual Amendments

**F536** Ss. 69C-69E inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 68(2) (with s. 68(7))

#### **69E Publication of details of persons liable to penalties under section 69C**

- (1) The Commissioners may publish information about a person if—
- (a) in consequence of an investigation the person has been found liable to one or more penalties under section 69C (the amount of which has been assessed), and
  - (b) the potential lost VAT in relation to the penalty (or the aggregate of the potential lost VAT in relation to each of the penalties) exceeds £50,000.
- (2) The information that may be published under subsection (1) is—
- (a) the person's name (including any trading name, previous name or pseudonym),
  - (b) the person's address (or registered office),
  - (c) the nature of any business carried on by the person,
  - (d) the amount of the penalty or penalties in question,
  - (e) the periods or times to which the actions giving rise to the penalty or penalties relate,
  - (f) any other information that the Commissioners consider it appropriate to publish in order to make clear the person's identity.

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- (3) In a case where—
- (a) the requirements in subsection (1)(a) and (b) are met in relation to a penalty or penalties for which a company is liable,
  - (b) information about the company is published by virtue of this section,
  - (c) a person (“the officer”) has been given a decision notice under section 69D specifying a portion of the penalty (or, if there is more than one penalty, of any of the penalties) payable by the company as a portion which the officer is liable to pay, and
  - (d) the amount (or, if the decision notice specifies portions of more than one penalty, the aggregate amount) which the officer is liable to pay under the decision notice exceeds £25, 000,
- the Commissioners may publish information about the officer.
- (4) The information that may be published under subsection (3) is—
- (a) the officer's name,
  - (b) the officer's address,
  - (c) the officer's position (or former position) in the company,
  - (d) the amount of any penalty imposed on the company of which a portion is payable by the officer under the decision notice and the portion so payable,
  - (e) the periods or times to which the actions giving rise to any such penalty relate,
  - (f) any other information that the Commissioners consider it appropriate to publish in order to make clear the officer's identity.
- (5) Information published under this section may be published in any manner that the Commissioners consider appropriate.
- (6) Before publishing any information under this section the Commissioners must—
- (a) inform the person or officer to which it relates that they are considering doing so (in the case of an officer, on the assumption that they publish information about the company), and
  - (b) afford the person or officer the opportunity to make representations about whether it should be published.
- (7) No information may be published under subsection (1) before the day on which the penalty becomes final or, where more than one penalty is involved, the latest day on which any of the penalties becomes final.
- (8) No information may be published under subsection (1) for the first time after the end of the period of one year beginning with that day.
- (9) No information may be published under subsection (3) before whichever is the later of—
- (a) the day mentioned in subsection (7), and
  - (b) the day on which the decision notice given to the officer becomes final.
- (10) No information may be published under subsection (3) for the first time after the end of the period of one year beginning with the later of the two days mentioned in subsection (9).
- (11) No information may be published (or continue to be published) under subsection (1) or (3) after the end of the period of three years beginning with the day mentioned in subsection (7).

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- (12) For the purposes of this section a penalty or a decision notice becomes final when the time for any appeal or further appeal relating to it expires or, if later, any appeal or final appeal relating to it is finally determined.
- (13) The Treasury may by regulations made by statutory instrument—
- (a) amend subsection (1) to vary the amount for the time being specified in paragraph (b), or
  - (b) amend subsection (3) to vary the amount for the time being specified in paragraph (d).
- (14) A statutory instrument containing regulations under subsection (13) is subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

**F536** Ss. 69C-69E inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(2\)](#) (with [s. 68\(7\)](#))

#### 70 Mitigation of penalties under sections 60, 63, 64 [<sup>F539</sup>, 67, 69A and 69C].

- (1) Where a person is liable to a penalty under section 60, 63, 64 [<sup>F540</sup>, 67 [<sup>F541</sup>, 69A or 69C]] [<sup>F542</sup> or under paragraph 10 of Schedule 11A], the Commissioners or, on appeal, a tribunal may reduce the penalty to such amount (including nil) as they think proper.
- (2) In the case of a penalty reduced by the Commissioners under subsection (1) above, a tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.
- (3) None of the matters specified in subsection (4) below shall be matters which the Commissioners or any tribunal shall be entitled to take into account in exercising their powers under this section.
- (4) Those matters are—
- (a) the insufficiency of the funds available to any person for paying any VAT due or for paying the amount of the penalty;
  - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of VAT;
  - (c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.
- [<sup>F543</sup>(5) In the application of subsections (3) and (4) in relation to a penalty under section 69C, subsection (4) has effect with the omission of paragraphs (b) and (c).]

#### Textual Amendments

**F539** Words in s. 70 heading substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(3\)\(a\)](#)

**F540** Words in s. 70(1) substituted (28.7.2000) by [2000 c. 17, s. 137\(3\)](#)

**F541** Words in s. 70(1) substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(3\)\(b\)](#)

**F542** Words in s. 70(1) inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004 \(c. 12\), s. 19\(2\), Sch. 2 para. 3; S.I. 2004/1934, art. 2](#)

**F543** S. 70(5) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(3\)\(c\)](#)

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## 71 Construction of sections 59 to 70.

- (1) For the purpose of any provision of sections 59 to 70 which refers to a reasonable excuse for any conduct—
  - (a) an insufficiency of funds to pay any VAT due is not a reasonable excuse; and
  - (b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness or inaccuracy on the part of the person relied upon is a reasonable excuse.
- (2) In relation to a prescribed accounting period, any reference in sections 59 to 69 to credit for input tax includes a reference to any sum which, in a return for that period, is claimed as a deduction from VAT due.

## 72 Offences.

- (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of VAT by him or any other person, he shall be liable—
  - (a) on summary conviction, to a penalty of [<sup>F544</sup>the statutory maximum][<sup>F544</sup>£20,000] or of three times the amount of the VAT, whichever is the greater, or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (2) Any reference in subsection (1) above or subsection (8) below to the evasion of VAT includes a reference to the obtaining of—
  - (a) the payment of a VAT credit; or
  - (b) a refund under section [<sup>F545</sup>35 or 36] of this Act or section 22 of the 1983 Act; or
  - <sup>F546</sup>(c) .....
  - (d) a repayment under section 39;and any reference in those subsections to the amount of the VAT shall be construed—
  - (i) in relation to VAT itself or a VAT credit, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated, and
  - (ii) in relation to a refund or repayment falling within paragraph [<sup>F547</sup>(b) or (d)] above, as a reference to the amount falsely claimed by way of refund or repayment.
- (3) If any person—
  - (a) with intent to deceive produces, furnishes or sends for the purposes of this Act or otherwise makes use for those purposes of any document which is false in a material particular; or
  - (b) in furnishing any information for the purposes of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,he shall be liable—
  - (i) on summary conviction, to a penalty of [<sup>F548</sup>the statutory maximum][<sup>F548</sup>£20,000] or, where subsection (4) or (5) below applies, to the alternative penalty specified in that subsection if it is greater, or to imprisonment for a term not exceeding 6 months or to both; or

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- (ii) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- (4) In any case where—
- the document referred to in subsection (3)(a) above is a return required under this Act, or
  - the information referred to in subsection (3)(b) above is contained in or otherwise relevant to such a return,
- the alternative penalty referred to in subsection (3)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated.
- (5) In any case where—
- the document referred to in subsection (3)(a) above is a claim for a refund under section [F54935 or 36] of this Act or section 22 of the 1983 Act, F550 ... or for a repayment under section 39, or
  - the information referred to in subsection (3)(b) above is contained in or otherwise relevant to such a claim,
- the alternative penalty referred to in subsection (3)(i) above is a penalty equal to 3 times the amount falsely claimed.
- (6) The reference in subsection (3)(a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.
- (7) Any reference in subsection (3)(a) or (6) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.
- (8) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable—
- on summary conviction, to a penalty of [F551the statutory maximum][F551£20,000] or, if greater, 3 times the amount of any VAT that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding 6 months or to both, or
  - on conviction on indictment to a penalty of any amount or to imprisonment for a term not exceeding 7 years or to both.
- F552(9) .....
- (10) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that VAT on the supply of the goods or services F553 ... or on the importation of the goods F554 ... has been or will be evaded, he shall be liable on summary conviction to a penalty of [F555level 5 on the standard scale][F555£20,000] or three times the amount of the VAT, whichever is the greater.
- (11) If any person supplies [F556or is supplied with] goods or services in contravention of paragraph 4(2) of Schedule 11, he shall be liable on summary conviction to a penalty of [F557level 5 on the standard scale][F557£20,000].



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- (12) Subject to subsection (13) below, sections 145 to 155 of the Management Act (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly in section 154(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to VAT.
- (13) In subsection (12) above the references to penalties do not include references to penalties under sections 60 to 70.

#### Textual Amendments

- F544** Sum in s. 72(1)(a) substituted for words (E.W.) (12.3.2015) by *The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015* (S.I. 2015/664), reg. 1(1), **Sch. 2 para. 8(2)** (with reg. 5(1))
- F545** Words in s. 72(2)(b) substituted (31.12.2020) by *Taxation (Cross-border Trade) Act 2018* (c. 22), s. 57(3), **Sch. 8 para. 63(2)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F546** S. 72(2)(c) omitted (31.12.2020) by virtue of *Taxation (Cross-border Trade) Act 2018* (c. 22), s. 57(3), **Sch. 8 para. 63(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F547** Words in s. 72(2)(d)(ii) substituted (31.12.2020) by *Taxation (Cross-border Trade) Act 2018* (c. 22), s. 57(3), **Sch. 8 para. 63(2)(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F548** Sum in s. 72(3)(i) substituted for words (E.W.) (12.3.2015) by *The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015* (S.I. 2015/664), reg. 1(1), **Sch. 2 para. 8(3)** (with reg. 5(1))
- F549** Words in s. 72(5)(a) substituted (31.12.2020) by *Taxation (Cross-border Trade) Act 2018* (c. 22), s. 57(3), **Sch. 8 para. 63(3)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F550** Words in s. 72(5)(a) omitted (31.12.2020) by virtue of *Taxation (Cross-border Trade) Act 2018* (c. 22), s. 57(3), **Sch. 8 para. 63(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F551** Sum in s. 72(8)(a) substituted for words (E.W.) (12.3.2015) by *The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015* (S.I. 2015/664), reg. 1(1), **Sch. 2 para. 8(4)** (with reg. 5(1))
- F552** S. 72(9) repealed (8.11.2007) by *Finance Act 2007* (c. 11), s. 84(4)(5), Sch. 22 para. 8(a), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 2(c)
- F553** Words in s. 72(10) omitted (31.12.2020) by virtue of *Taxation (Cross-border Trade) Act 2018* (c. 22), s. 57(3), **Sch. 8 para. 63(4)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F554** Words in s. 72(10) omitted (31.12.2020) by virtue of *Taxation (Cross-border Trade) Act 2018* (c. 22), s. 57(3), **Sch. 8 para. 63(4)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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- F555** Sum in s. 72(10) substituted for words (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 2 para. 8\(5\)](#) (with reg. 5(1))
- F556** Words in s. 72(11) inserted (retrospective to 10.4.2003) by [Finance Act 2003 \(c. 14\), s. 17\(5\)\(8\)](#)
- F557** Sum in s. 72(11) substituted for words (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 2 para. 8\(6\)](#) (with reg. 5(1))

### *Assessments of VAT and other payments due*

## 73 Failure to make returns etc.

- (1) Where a person has failed to make any returns required under this Act (or under any provision repealed by this Act) or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect, they may assess the amount of VAT due from him to the best of their judgment and notify it to him.
- (2) In any case where, for any prescribed accounting period, there has been paid or credited to any person—
  - (a) as being a repayment or refund of VAT, or
  - (b) as being due to him as a VAT credit,
 an amount which ought not to have been so paid or credited, or which would not have been so paid or credited had the facts been known or been as they later turn out to be, the Commissioners may assess that amount as being VAT due from him for that period and notify it to him accordingly.
- (3) An amount—
  - (a) which has been paid to any person as being due to him as a VAT credit, and
  - (b) which, by reason of the cancellation of that person's registration under paragraph 13(2) to (6) of Schedule 1, [<sup>F558</sup>paragraph 9 or 11 of Schedule 1A]<sup>F559</sup> ... [<sup>F560</sup>or paragraph 6(1) or (2) of Schedule 3A] ought not to have been so paid,
 may be assessed under subsection (2) above notwithstanding that cancellation.
- (4) Where a person is assessed under subsections (1) and (2) above in respect of the same prescribed accounting period the assessments may be combined and notified to him as one assessment.
- (5) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, [<sup>F561</sup>trustee in sequestration], receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) above shall apply as if the reference to VAT due from him included a reference to VAT due from that other person.
- (6) An assessment under subsection (1), (2) or (3) above of an amount of VAT due for any prescribed accounting period must be made within the time limits provided for in section 77 and shall not be made after the later of the following—
  - (a) 2 years after the end of the prescribed accounting period; or
  - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,

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but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under subsection (1), (2) or (3) above, another assessment may be made under that subsection, in addition to any earlier assessment.

[<sup>F562</sup>(6A) In the case of an assessment under subsection (2), the prescribed accounting period referred to in subsection (6)(a) and in section 77(1)(a) is the prescribed accounting period in which the repayment or refund of VAT, or the VAT credit, was paid or credited.]

(7) Where a taxable person—

(a) has in the course or furtherance of a business carried on by him, been supplied with any goods<sup>F563</sup>... or otherwise obtained possession or control of any goods, or

(b) has, in the course or furtherance of such a business, imported any goods<sup>F564</sup>..., the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been exported or otherwise removed from the United Kingdom without being exported or so removed by way of supply or have been lost or destroyed, they may assess to the best of their judgment and notify to him the amount of VAT that would have been chargeable in respect of the supply of the goods if they had been supplied by him.

[<sup>F565</sup>(7A) Where a fiscal warehousekeeper has failed to pay VAT required by the Commissioners under section 18E(2), the Commissioners may assess to the best of their judgment the amount of that VAT due from him and notify it to him.

(7B) Where it appears to the Commissioners that goods have been removed from a warehouse or fiscal warehouse without payment of the VAT payable under section 18(4) or section 18D on that removal, they may assess to the best of their judgment the amount of VAT due from the person removing the goods or other person liable and notify it to him.]

(8) In any case where—

(a) as a result of a person's failure to make a return for a prescribed accounting period, the Commissioners have made an assessment under subsection (1) above for that period,

(b) the VAT assessed has been paid but no proper return has been made for the period to which the assessment related, and

(c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by a person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subsection (5) above, the Commissioners find it necessary to make another assessment under subsection (1) above,

then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of VAT greater than that which they would otherwise have considered to be appropriate.

(9) Where an amount has been assessed and notified to any person under subsection (1), (2), (3) [<sup>F566</sup>, (7), (7A) or (7B)] above it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of VAT due from him and may be recovered

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accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

- (10) For the purposes of this section notification to a personal representative, trustee in bankruptcy, [<sup>F567</sup>trustee in sequestration], receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

#### Textual Amendments

- F558** Words in s. 73(3)(b) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 8](#)
- F559** Words in s. 73(3)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F560** Words in s. 73(3)(b) substituted (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by [2000 c. 17](#), s. 136(4)
- F561** Words in s. 73(5) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 12\(2\)](#)
- F562** S. 73(6A) inserted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\)](#), s. 120(1)(5)
- F563** Words in s. 73(7)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F564** Words in s. 73(7)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(3\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F565** S. 73(7A)(7B) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8](#), ss. 25, 26, [Sch. 3 para. 10](#); S.I. 1996/1249, [art. 2](#)
- F566** Words in s. 73(9) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8](#), ss. 25, 26, [Sch. 3 para. 11](#); S.I. 1996/1249, [art. 2](#)
- F567** Words in s. 73(10) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 12\(2\)](#)

#### Modifications etc. (not altering text)

- C47** S. 73 modified (20.10.1995) by S.I. 1995/2518, [regs. 181, 194](#)

## 74 Interest on VAT recovered or recoverable by assessment.

- (1) Subject to section 76(8), where an assessment is made under any provision of section 73 and, in the case of an assessment under section 73(1) at least one of the following conditions is fulfilled, namely—
- (a) the assessment relates to a prescribed accounting period in respect of which either—
    - (i) a return has previously been made, or
    - (ii) an earlier assessment has already been notified to the person concerned,

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- (b) the assessment relates to a prescribed accounting period which exceeds 3 months and begins on the date with effect from which the person concerned was, or was required to be, registered,
- (c) the assessment relates to a prescribed accounting period at the beginning of which the person concerned was, but should no longer have been, exempted from registration under paragraph 14(1) of Schedule 1 [<sup>F568</sup>under paragraph 13 of Schedule 1A,] or [<sup>F569F570</sup>... or under paragraph 7 of Schedule 3A],

the whole of the amount assessed shall, subject to subsection (3) below, carry interest at [<sup>F571</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until payment.

(2) In any case where—

- (a) the circumstances are such that an assessment falling within subsection (1) above could have been made, but
- (b) before such an assessment was made the VAT due or other amount concerned was paid (so that no such assessment was necessary),

the whole of the amount paid shall, subject to subsection (3) below, carry interest at [<sup>F572</sup>the rate applicable under section 197 of the Finance Act 1996] from the reckonable date until the date on which it was paid.

(3) Where (apart from this subsection)—

- (a) the period before the assessment in question for which any amount would carry interest under subsection (1) above; or
- (b) the period for which any amount would carry interest under subsection (2) above,

would exceed 3 years, the part of that period for which that amount shall carry interest under that subsection shall be confined to the last 3 years of that period.

(4) Where an unauthorised person, as defined in [<sup>F573</sup>paragraph 2(3) of Schedule 41 to the Finance Act 2008], issues an invoice showing an amount as being VAT or as including an amount attributable to VAT, the amount which is shown as VAT or, as the case may be, is to be taken as representing VAT shall carry interest at [<sup>F574</sup>the rate applicable under section 197 of the Finance Act 1996] from the date of the invoice until payment.

(5) The references in subsections (1) and (2) above to the reckonable date shall be construed as follows—

- (a) where the amount assessed or paid is such an amount as is referred to in section 73(2)(a) or (b), the reckonable date is the seventh day after the day on which a written instruction was issued by the Commissioners directing the making of the payment of the amount which ought not to have been repaid or paid to the person concerned; and
- (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under this Act) a return is required to be made for the prescribed accounting period to which the amount assessed or paid relates; and
- (c) in the case of an amount assessed under section 73(7) the sum assessed shall be taken for the purposes of paragraph (b) above to relate to the period for which the assessment was made;

and interest under this section shall run from the reckonable date even if that date is a non-business day, within the meaning of section 92 of the <sup>M20</sup>Bills of Exchange Act 1882.

<sup>F575</sup>(6) .....

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(7) Interest under this section shall be paid without any deduction of income tax.

#### Textual Amendments

- F568** Words in s. 74(1)(c) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 9](#)
- F569** Words in s. 74(1)(c) substituted (28.7.2000 with effect as mentioned in [s. 136\(10\)](#) of the amending Act) by [2000 c. 17](#), [s. 136\(5\)](#)
- F570** Words in s. 74(1)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 65](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F571** Words in s. 74(1) substituted (1.4.1997 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8](#), [s. 197\(6\)\(d\)\(i\)\(7\)](#); [S.I. 1997/1015](#), [art. 2](#)
- F572** Words in s. 74(2) substituted (1.4.1997 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8](#), [s. 197\(6\)\(d\)\(i\)\(7\)](#); [S.I. 1997/1015](#), [art. 2](#)
- F573** Words in s. 74(4) substituted (1.4.2010) by [The Finance Act 2008 \(Penalties for Errors and Failure to Notify etc\) \(Consequential Amendments\) Order 2010 \(S.I. 2010/530\)](#), [art. 1](#), [Sch. para. 5](#)
- F574** Words in s. 74(4) substituted (1.4.1997 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8](#), [s. 197\(6\)\(d\)\(i\)\(7\)](#); [S.I. 1997/1015](#), [art. 2](#)
- F575** S. 74(6) repealed (1.4.1997 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8](#), [s. 205](#), [Sch. 41 Pt. VIII](#) Note; [S.I. 1997/1015](#), [art. 2](#)

#### Modifications etc. (not altering text)

- C48** S. 74 modified (6.2.1996) by [S.I. 1996/165](#), [art. 2](#)  
S. 74 power to amend (1.4.1997) by [1996 c. 8](#), [s. 197\(2\)\(c\)\(7\)](#); [S.I. 1997/1015](#), [art. 2](#)

#### Marginal Citations

- M20** [1882 c. 61](#).

<sup>F576</sup>75 Assessments in cases of acquisitions of certain goods by non-taxable persons.

#### Textual Amendments

- F576** S. 75 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 66](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

76 Assessment of amounts due by way of penalty, interest or surcharge.

- (1) Where any person is liable—
- (a) to a surcharge under section 59 [<sup>F577</sup>or 59A] or
  - (b) to a penalty under any of sections 60 [<sup>F578</sup>to 69C], or
  - (c) for interest under section 74, [<sup>F579</sup>or
  - (d) a penalty under regulations made under section 135 of the Finance Act 2002 (mandatory electronic filing of returns) in connection with VAT,]

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the Commissioners may, subject to subsection (2) below, assess the amount due by way of penalty, interest or surcharge, as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 60 [F580, to [F581, 69B]] [F582] or the regulations] may have ceased before an assessment is made under this section shall not affect the power of the Commissioners to make such an assessment.

- (2) Where a person is liable to a penalty under section 69 for any failure to comply with such a requirement as is referred to in subsection (1)(c) to (f) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of 2 years preceding the assessment, the Commissioners have issued him with a written warning of the consequences of a continuing failure to comply with that requirement.
- (3) In the case of the penalties, interest and surcharge referred to in the following paragraphs, the assessment under this section shall be of an amount due in respect of the prescribed accounting period which in the paragraph concerned is referred to as “the relevant period”—
  - (a) in the case of a surcharge under section 59 [F583] or 59A], the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises;
  - (b) in the case of a penalty under section 60 relating to the evasion of VAT, the relevant period is the prescribed accounting period for which the VAT evaded was due;
  - (c) in the case of a penalty under section 60 relating to the obtaining of the payment of a VAT credit, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
  - (d) in the case of a penalty under section 63, the relevant period is the prescribed accounting period for which liability to VAT was understated or, as the case may be, for which entitlement to a VAT credit was overstated; [F584] ...
  - (e) in the case of interest under section 74, the relevant period is the prescribed accounting period in respect of which the VAT (or amount assessed as VAT) was due [F585]; and
  - (f) in the case of a penalty under regulations made under section 135 of the Finance Act 2002, the relevant period is the prescribed accounting period in respect of which the contravention of, or failure to comply with, the regulations occurred].

[F586] (3A) .....

- (4) In any case where the amount of any penalty, interest or surcharge falls to be calculated by reference to VAT which was not paid at the time it should have been and that VAT (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of this Act as VAT due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the VAT and penalty, interest or surcharge.
- (5) Where a person is assessed under this section to an amount due by way of any penalty, interest or surcharge falling within subsection (3) [F587] ... above and is also assessed under section 73(1), (2) [F588], (7), (7A) or (7B)] for the prescribed accounting period which is the relevant period under subsection (3) [F587] ... above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty, interest or surcharge shall be separately identified in the notice.

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F589(6) .....

- (7) In the case of an amount due by way of penalty under section 66 or 69 or interest under section 74—
- (a) a notice of assessment under this section shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty which is assessed or, as the case may be, the amount of interest is calculated; and
  - (b) if the penalty or interest continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.
- (8) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 66 or 69 or for interest under section 74—
- (a) a failure or default falling within section 66(1) or 69(1) is remedied, or
  - (b) the VAT or other amount referred to in section 74(1) is paid,
- it shall be treated for the purposes of section 66 or 69 or, as the case may be, section 74 as paid or remedied on the date specified as mentioned in subsection (7)(a) above.
- (9) If an amount is assessed and notified to any person under this section, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were VAT due from him.
- (10) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, [<sup>F590</sup>trustee in sequestration], receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.

### Textual Amendments

- F577** Words in s. 76(1)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 67\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F578** Words in s. 76(1)(b) substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 68(4)
- F579** S. 76(1)(d) and word inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 93(5)
- F580** Words in s. 76(1) substituted (28.7.2000) by 2000 c. 17, s. 137(4)
- F581** Word in s. 76(1) substituted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 21(3)
- F582** Words in s. 76(1) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 93(6)
- F583** Words in s. 76(3)(a) substituted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(7)(8)
- F584** Word in s. 76(3)(d) repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 5\(4\)](#)
- F585** S. 76(3)(f) and word inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 93(7)
- F586** S. 76(3A) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 67\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F587** Words in s. 76(5) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 67\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)



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- F588** Words in s. 76(5) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 11**; S.I. 1996/1249, **art. 2**
- F589** S. 76(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 4(b)** (with **reg. 7**)
- F590** Words in s. 76(10) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 12(4)**

**Modifications etc. (not altering text)**

- C49** S. 76 modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), **regs. 1, 18** (with **reg. 15**); S.I. 2020/1641, **reg. 2**, Sch.
- C50** S. 76(1)-(8) excluded (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), **reg. 1, Sch. 2 para. 3(1)**
- C51** S. 76(9) applied (with modifications) (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), **reg. 1, Sch. 2 para. 3(2)**
- C52** S. 76(9) restricted (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), **reg. 1, Sch. 2 para. 3(1)**
- C53** S. 76(10) amended (retrospectively) by 1997 c. 16, **s. 45(6)**
- C54** S. 76(10) excluded (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), **reg. 1, Sch. 2 para. 3(1)**

**F591 76A Section 76: cases involving special accounting schemes**

.....

**Textual Amendments**

- F591** S. 76A omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 68** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 4(b)** (with **reg. 7**)

**77 Assessments: time limits and supplementary assessments.**

- (1) Subject to the following provisions of this section, an assessment under section 73<sup>F592</sup> ... or 76, shall not be made—
- (a) more than [<sup>F593</sup>4 years] after the end of the prescribed accounting period or importation <sup>F594</sup> ... concerned, or
  - (b) in the case of an assessment under section 76 of an amount due by way of a penalty which is not among those referred to in subsection (3) of that section, [<sup>F595</sup>4 years] after the event giving rise to the penalty.

- [<sup>F596</sup>(2) Subject to subsection (5) below, an assessment under section 76 of an amount due by way of any penalty, interest or surcharge referred to in subsection (3) <sup>F597</sup>... of that section may be made at any time before the expiry of the period of 2 years beginning

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with the time when the amount of VAT due for the prescribed accounting period concerned has been finally determined.

(2A) Subject to subsection (5) below, an assessment under section 76 of a penalty under section 65 or 66 may be made at any time before the expiry of the period of 2 years beginning with the time when facts sufficient in the opinion of the Commissioners to indicate, as the case may be—

- (a) that the statement in question contained a material inaccuracy, or
- (b) that there had been a default within the meaning of section 66(1),

came to the Commissioners’ knowledge.]

(3) In relation to an assessment under section 76, any reference in subsection (1) or (2) above to the prescribed accounting period concerned is a reference to that period which, in the case of the penalty, interest or surcharge concerned, is the relevant period referred to in subsection (3) <sup>F598</sup> ... of that section.

[<sup>F599</sup>(4) In any case falling within subsection (4A), an assessment of a person (“P”), or of an amount payable by P, may be made at any time not more than 20 years after the end of the prescribed accounting period or the importation<sup>F600</sup> ... or event giving rise to the penalty, as appropriate (subject to subsection (5)).

(4A) Those cases are—

- (a) a case involving a loss of VAT brought about deliberately by P (or by another person acting on P's behalf),
- (b) a case in which P has participated in a transaction knowing that it was part of arrangements of any kind (whether or not legally enforceable) intended to bring about a loss of VAT,
- (c) a case involving a loss of VAT attributable to a failure by P to comply with a notification obligation, and
- (d) a case involving a loss of VAT attributable to a scheme in respect of which P has failed to comply with an obligation under paragraph 6 of Schedule 11A [<sup>F601</sup> or an obligation under paragraph 17(2) or 18(2) of Schedule 17 to FA 2017].

(4B) In subsection (4A) the references to a loss of tax brought about deliberately by P or another person include a loss that arises as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by that person.

(4C) In subsection (4A)(c) “notification obligation” means an obligation under—

- (a) paragraph 5, 6, 7 or 14(2) or (3) of Schedule 1,
- [<sup>F602</sup>(aa) paragraph 5, 6 or 13(3) of Schedule 1A, [<sup>F603</sup>or]]
- <sup>F604</sup>(b) .....
- <sup>F605</sup>(c) .....
- (d) paragraph 3, 4 or 7(2) or (3) of Schedule 3A, <sup>F606</sup> ...
- <sup>F606</sup>(e) .....]

(5) Where, after a person’s death, the Commissioners propose to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of penalty, interest or surcharge—

- (a) the assessment shall not be made more than [<sup>F607</sup>4 years] after the death; <sup>F608</sup> ...
- <sup>F608</sup>(b) .....

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- (6) If, otherwise than in circumstances falling within section 73(6)(b) <sup>F609</sup> ..., it appears to the Commissioners that the amount which ought to have been assessed in an assessment under that section or under section 76 exceeds the amount which was so assessed, then—
- (a) under the like provision as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made,
- the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

### Textual Amendments

- F592** Word in s. 77(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(2)(a)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F593** Words in s. 77(1)(a) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), **Sch. 39 para. 34(2)**; [S.I. 2009/403](#), [art. 2\(1\)](#) (with [arts. 4, 9](#))
- F594** Words in s. 77(1)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(2)(b)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F595** Words in s. 77(1)(b) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), **Sch. 39 para. 34(2)**; [S.I. 2009/403](#), [art. 2\(1\)](#) (with [arts. 4, 9](#))
- F596** S. 77(2)(2A) substituted (27.7.1999 with effect as mentioned in s. 18(2)) for s. 77(2) by [1999 c. 16](#), s. **18(1)(2)**
- F597** Words in s. 77(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(3)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F598** Words in s. 77(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(4)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F599** S. 77(4)-(4C) substituted for s. 77(4) (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), **Sch. 39 para. 34(3)**; [S.I. 2009/403](#), [art. 2\(1\)](#) (with [arts. 4, 9](#))
- F600** Word in s. 77(4) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(5)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F601** Words in s. 77(4A)(d) inserted (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 66(4), **Sch. 17 para. 51**
- F602** S. 77(4C)(aa) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 28 para. 10**
- F603** Word in s. 77(4C)(aa) inserted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(6)(a)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F604** S. 77(4C)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(6)(b)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

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- F605** S. 77(4C)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F606** S. 77(4C)(e) and word omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F607** Words in s. 77(5)(a) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(4)(a)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F608** S. 77(5)(b) and word omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(4)(b)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F609** Words in s. 77(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### *[<sup>F610</sup>Liability for unpaid VAT of another*

#### **Textual Amendments**

- F610** S. 77A and cross-heading inserted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), s. 18(1)(4)

#### **77A Joint and several liability of traders in supply chain where tax unpaid**

- (1) This section applies to goods [<sup>F611</sup>which fall within any one or more] of the following descriptions—
- [<sup>F612</sup>(a) any equipment made or adapted for use as a telephone and any other equipment made or adapted for use in connection with telephones or telecommunication;
- (b) any equipment made or adapted for use as a computer and any other equipment made or adapted for use in connection with computers or computer systems (including, in particular, positional determination devices for use with satellite navigation systems);
- (c) any other electronic equipment made or adapted for use by individuals for the purposes of leisure, amusement or entertainment and any other equipment made or adapted for use in connection with any such electronic equipment;
- and in this subsection “other equipment” includes parts, accessories and software.]
- (2) Where—
- (a) a taxable supply of goods to which this section applies has been made to a taxable person, and
- (b) at the time of the supply the person knew or had reasonable grounds to suspect that some or all of the VAT payable in respect of that supply, or on any previous or subsequent supply of those goods, would go unpaid,
- the Commissioners may serve on him a notice specifying the amount of the VAT so payable that is unpaid, and stating the effect of the notice.
- (3) The effect of a notice under this section is that—

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- (a) the person served with the notice, and
  - (b) the person liable, apart from this section, for the amount specified in the notice,
- are jointly and severally liable to the Commissioners for that amount.
- (4) For the purposes of subsection (2) above the amount of VAT that is payable in respect of a supply is the lesser of—
- (a) the amount chargeable on the supply, and
  - (b) the amount shown as due on the supplier’s return for the prescribed accounting period in question (if he has made one) together with any amount assessed as due from him for that period (subject to any appeal by him).
- (5) The reference in subsection (4)(b) above to assessing an amount as due from a person includes a reference to the case where, because it is impracticable to do so, the amount is not notified to him.
- (6) For the purposes of subsection (2) above, a person shall be presumed to have reasonable grounds for suspecting matters to be as mentioned in paragraph (b) of that subsection if the price payable by him for the goods in question—
- (a) was less than the lowest price that might reasonably be expected to be payable for them on the open market, or
  - (b) was less than the price payable on any previous supply of those goods.
- (7) The presumption provided for by subsection (6) above is rebuttable on proof that the low price payable for the goods was due to circumstances unconnected with failure to pay VAT.
- (8) Subsection (6) above is without prejudice to any other way of establishing reasonable grounds for suspicion.
- [<sup>F613</sup>(9) The Treasury may by order amend subsection (1) above.
- (9A) The Treasury may by order amend this section in order to extend or otherwise alter the circumstances in which a person shall be presumed to have reasonable grounds for suspecting matters to be as mentioned in subsection (2)(b) above.
- (9B) Any order under this section may make such incidental, supplemental, consequential or transitional provision as the Treasury think fit.]
- (10) For the purposes of this section—
- (a) “goods” includes services;
  - (b) an amount of VAT counts as unpaid only to the extent that it exceeds the amount of any refund due.]

#### Textual Amendments

**F611** Words in s. 77A(1) substituted (1.5.2007) by [The Value Added Tax \(Amendment of section 77A of the Value Added Tax Act 1994\) Order 2007 \(S.I. 2007/939\)](#), arts. 1, **2(a)**

**F612** S. 77A(1)(a)-(c) substituted for s. 77A(1)(a)(b) (1.5.2007) by [The Value Added Tax \(Amendment of section 77A of the Value Added Tax Act 1994\) Order 2007 \(S.I. 2007/939\)](#), arts. 1, **2(b)**

**F613** S. 77A(9)-(9B) substituted for s. 77A(9) (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. **98(1)**

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*[<sup>F614</sup>Online marketplaces]*

**Textual Amendments**

**F614** S. 77B cross-heading inserted (15.3.2018) by **Finance Act 2018 (c. 3), s. 38(3)**

**[<sup>F615</sup>77B Joint and several liability: [<sup>F616</sup>sellers identified as non-compliant by the Commissioners]**

- (1) This section applies where a person (“P”)<sup>F617</sup>...—
  - (a) makes taxable supplies of goods through an online marketplace, and
  - (b) fails to comply with any requirement imposed on P by or under this Act (whether or not it relates to those supplies).
- (2) The Commissioners may give the person who is the operator of the online marketplace (“the operator”) a notice—
  - (a) stating that, unless the operator secures the result mentioned in subsection (3), subsection (5) will apply, and
  - (b) explaining the effect of subsection (5).
- (3) The result referred to in subsection (2)(a) is that P does not offer goods for sale through the online marketplace at any time between—
  - (a) the end of such period as may be specified in the notice, and
  - (b) the notice ceasing to have effect.
- (4) If the operator does not secure the result mentioned in subsection (3), subsection (5) applies.
- (5) The operator is jointly and severally liable to the Commissioners for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the period for which the notice has effect.
- (6) A notice under subsection (2) (“the liability notice”) has effect for the period beginning with the day after the day on which it is given, and ending—
  - (a) with the day specified in a notice given by the Commissioners under subsection (7), or
  - (b) in accordance with subsection (8).
- (7) The Commissioners may at any time give the operator a notice stating that the period for which the liability notice has effect ends with the day specified in the notice.
- (8) If the person to whom the liability notice is given ceases to be the operator of the online marketplace, the liability notice ceases to have effect at the end of—
  - (a) the day on which the person ceases to be the operator, or
  - (b) (if later) the day on which the person notifies the Commissioners that the person is no longer the operator.

<sup>F618</sup>(9) .....

<sup>F619</sup>(10) .....

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- (11) The Treasury may by regulations provide that supplies made or goods offered for sale in circumstances specified in the regulations are, or are not, to be treated for the purposes of this section as having been made or offered through an online marketplace.

<sup>F620</sup>(12) .....

#### Textual Amendments

- F615** Ss. 77B-77D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 124(2)
- F616** Words in s. 77B heading substituted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), s. 38(4)(a)
- F617** Words in s. 77B(1) omitted (15.3.2018) by virtue of [Finance Act 2018 \(c. 3\)](#), s. 38(4)(b)
- F618** S. 77B(9) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 8](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 9
- F619** S. 77B(10) omitted (15.3.2018) by virtue of [Finance Act 2018 \(c. 3\)](#), s. 38(4)(c)
- F620** S. 77B(12) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 8](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 9

#### <sup>F621</sup>**77B** Joint and several liability: non-UK sellers in breach of Schedule 1A registration requirement

- (1) This section applies where—
- a person (“P”) who makes taxable supplies of goods through an online marketplace is in breach of a Schedule 1A registration requirement, and
  - the operator of the online marketplace knows, or should know, that P is in breach of a Schedule 1A registration requirement.
- (2) If the operator of the online marketplace does not secure the result in subsection (3), subsection (4) applies.
- (3) The result referred to in subsection (2) is that P does not offer goods for sale through the online marketplace in any period between—
- the end of the period of 60 days beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 1A registration requirement, and
  - P ceasing to be in breach of a Schedule 1A registration requirement.
- (4) The operator is jointly and severally liable to the Commissioners for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the relevant period.
- (5) The relevant period is the period—
- beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 1A registration requirement, and
  - ending with P ceasing to be in breach of a Schedule 1A registration requirement.
- (6) But if the operator has been given a notice under section 77B in respect of P, the relevant period does not include—
- any period for which the operator is jointly and severally liable for the amount mentioned in subsection (4) by virtue of section 77B, or

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- (b) if the operator secures the result mentioned in section 77B(3), the period beginning with the day on which the operator is given the notice and ending with the day on which the operator secures that result.
- (7) P is in breach of a Schedule 1A registration requirement if P is liable to be registered under Schedule 1A to this Act, but is not so registered.

<sup>F622</sup>(8)] . . . . .

**Textual Amendments**

**F615** Ss. 77B-77D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 124\(2\)](#)

**F621** S. 77BA inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), s. 38\(5\)](#)

**F622** S. 77BA(8) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 9](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

**77C Joint and several liability under section 77B [<sup>F623</sup>or 77BA]: assessments**

- (1) The Commissioners may assess the amount of VAT due from the operator of an online marketplace by virtue of section 77B [<sup>F624</sup>or 77BA] to the best of their judgment and notify it to the operator.
- (2) Subject to subsections (3) to (6), an assessment may be made for such period or periods as the Commissioners consider appropriate.
- (3) An assessment for any month may not be made after the end of—
  - (a) 2 years after the end of that month, or
  - (b) (if later) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of an assessment for that month, comes to their knowledge.
- (4) Subsection (5) applies if, after the Commissioners have made an assessment for a period, evidence of facts sufficient in the opinion of the Commissioners to justify the making of a further assessment for that period comes to their knowledge.
- (5) The Commissioners may, no later than one year after that evidence comes to their knowledge, make a further assessment for that period (subject to subsection (6)).
- (6) An assessment or further assessment for a month may not be made more than 4 years after the end of the month.
- (7) An amount which has been assessed and notified to a person under this section is deemed to be an amount of VAT due from the person and may be recovered accordingly (unless, or except to the extent that, the assessment is subsequently withdrawn or reduced).
- (8) Subsection (7) is subject to the provisions of this Act as to appeals.

<sup>F625</sup>(9)] . . . . .

**Textual Amendments**

**F615** Ss. 77B-77D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 124\(2\)](#)



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- F623** Words in s. 77C heading inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), s. 38\(6\)\(a\)](#)
- F624** Words in s. 77C(1) inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), s. 38\(6\)\(b\)](#)
- F625** S. 77C(9) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 10](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 9](#)

**77D Joint and several liability under section 77B [<sup>F626</sup>or 77BA]: interest**

- (1) If an amount assessed under section 77C is not paid before the end of the period of 30 days beginning with the day on which notice of the assessment is given, the amount assessed carries interest from the day on which the notice of assessment is given until payment.
- (2) Interest under this section is payable at the rate applicable under section 197 of the Finance Act 1996.
- (3) Where the operator of an online marketplace is liable for interest under this section the Commissioners may assess the amount due and notify it to the operator.
- (4) A notice of assessment under this section must specify a date (not later than the date of the notice) to which the interest is calculated.
- (5) A further assessment or assessments may be made under this section in respect of any interest accrued after that date.
- (6) An amount of interest assessed and notified to the operator of an online marketplace under this section is recoverable as if it were VAT due from the operator (unless, or except to the extent that, the assessment is withdrawn or reduced).
- (7) Interest under this section is to be paid without any deduction of income tax.

<sup>F627</sup>(8)] . . . . .

**Textual Amendments**

- F615** Ss. 77B-77D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 124\(2\)](#)
- F626** Words in s. 77D heading inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), s. 38\(7\)\(a\)](#)
- F627** S. 77D(8) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 11](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 9](#)

**[<sup>F628</sup>77E Display of VAT registration numbers**

- (1) This section applies where a person (“P”) offers, or proposes to offer, goods for sale through an online marketplace.
- (2) The operator of the online marketplace must take reasonable steps to check that—
  - (a) any number provided to the operator (by P or another person) as P’s VAT registration number is valid, and
  - (b) any number displayed on the online marketplace as P’s VAT registration number (under subsection (3) or otherwise) is valid.
- (3) If a number is provided to the operator (by P or another person) as P’s VAT registration number and the number is valid, the operator must secure that it is displayed on the

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online marketplace as P's VAT registration number no later than the time mentioned in subsection (4).

- (4) The time is—
- (a) the end of the period of 10 days beginning with the day on which the operator is provided with the number, or
  - (b) if the number is provided before P offers goods for sale through the online marketplace, the later of—
    - (i) the end of the period in paragraph (a), and
    - (ii) the end of the day on which P first offers goods for sale through the online marketplace.
- (5) If the operator becomes aware that a number displayed on the online marketplace as P's VAT registration number (under subsection (3) or otherwise) is not valid, the operator must secure that it is removed from the online marketplace before the end of the relevant period.
- (6) The relevant period is the period of 10 days beginning with the day on which the operator first became aware that the number was not valid.
- (7) A number is provided or displayed as P's VAT registration number only if it is provided or displayed in connection with P offering, or proposing to offer, goods for sale through the online marketplace.
- (8) A number provided or displayed as P's VAT registration number is valid only if—
- (a) P is registered under this Act, and
  - (b) the number is P's VAT registration number.
- (9) In this section—
- F629 ...
- “VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.]

#### Textual Amendments

**F628** S. 77E inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), s. 38\(8\)](#)

**F629** Words in s. 77E(9) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 12](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

*<sup>F630</sup>Liability of operators of online marketplaces for VAT in cases of deemed supply*

#### Textual Amendments

**F630** S. 77F and crossheading inserted (31.12.2020 in so far as not already in force, 17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 13](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

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## **77F Exception from liability under section 5A**

- (1) This section applies where an amount of VAT is due from the operator of an online marketplace by virtue of section 5A.
- (2) The operator is not liable for any amount of VAT in excess of the amount paid by R (as defined in section 5A) provided that the operator took—
  - (a) all reasonable steps to ascertain the matters set out in subsection (3), and
  - (b) all other reasonable steps to satisfy itself that the amount charged was correct.
- (3) The matters are—
  - (a) the place of establishment of the person making taxable supplies facilitated by the online marketplace;
  - (b) the location of the goods at the time of their supply.]

*Interest, repayment supplements etc. payable by Commissioners*

## **78 Interest in certain cases of official error.**

- (1) Where, due to an error on the part of the Commissioners, a person has—
  - (a) accounted to them for an amount by way of output tax which was not output tax due from him [<sup>F631</sup>and, as a result, they are liable under section 80(2A) to pay (or repay) an amount to him,] or
  - (b) failed to claim credit under section 25 for an amount for which he was entitled so to claim credit and which they are in consequence liable to pay to him, or
  - (c) (otherwise than in a case falling within paragraph (a) or (b) above) paid to them by way of VAT an amount that was not VAT due and which they are in consequence liable to repay to him, or
  - (d) suffered delay in receiving payment of an amount due to him from them in connection with VAT,

then, if and to the extent that they would not be liable to do so apart from this section, they shall pay interest to him on that amount for the applicable period, but subject to the following provisions of this section.

[<sup>F632</sup>(1A) In subsection (1) above—

- (a) references to an amount which the Commissioners are liable in consequence of any matter to pay or repay to any person are references, where a claim for the payment or repayment has to be made, to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and
  - (b) the amounts referred to in paragraph (d) do not include any amount payable under this section.]
- (2) Nothing in subsection (1) above requires the Commissioners to pay interest—
  - (a) on any amount which falls to be increased by a supplement under section 79; or
  - (b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.
- (3) Interest under this section shall be payable at [<sup>F633</sup>the rate applicable under section 197 of the Finance Act 1996]. and the first such order may prescribe, for cases where

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interest runs from before the date on which that order is expressed to come into force, rates for periods ending before that date.

- (4) The “applicable period” in a case falling within subsection (1)(a) or (b) above is the period—
- (a) beginning with the appropriate commencement date, and
  - (b) ending with the date on which the Commissioners authorise payment of the amount on which the interest is payable.
- (5) In subsection (4) above, the “appropriate commencement date”—
- (a) in a case where an amount would have been due from the person by way of VAT in connection with the relevant return, had his input tax and output tax been as stated in that return, means the date on which the Commissioners received payment of that amount; and
  - (b) in a case where no such payment would have been due from him in connection with that return, means the date on which the Commissioners would, apart from the error, have authorised payment of the amount on which the interest is payable;
- and in this subsection “the relevant return” means the return in which the person accounted for, or (as the case may be) ought to have claimed credit for, the amount on which the interest is payable.
- (6) The “applicable period” in a case falling within subsection (1)(c) above is the period—
- (a) beginning with the date on which the payment is received by the Commissioners, and
  - (b) ending with the date on which they authorise payment of the amount on which the interest is payable.
- (7) The “applicable period” in a case falling within subsection (1)(d) above is the period—
- (a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and
  - (b) ending with the date on which they in fact authorise payment of that amount.
- [<sup>F634</sup>(8) In determining in accordance with subsection (4), (6) or (7) above the applicable period for the purposes of subsection (1) above, there shall be left out of account any period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.
- (8A) The reference in subsection (8) above to a period by which the Commissioners’ authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—
- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;
  - (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
    - (i) at or before the time of the making of a claim, or
    - (ii) subsequently in response to a request for information by the Commissioners,

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- with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and
- (c) the making, as part of or in association with either—
- (i) the claim for interest, or
  - (ii) any claim for the payment or repayment of the amount on which interest is claimed,
- of a claim to anything to which the claimant was not entitled.
- (9) In determining for the purposes of subsection (8A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be prescribed, any period which—
- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
  - (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
    - (i) that they have received a complete answer to their request for information;
    - (ii) that they have received all that they need in answer to that request; or
    - (iii) that it is unnecessary for them to be provided with any information in answer to that request.]
- (10) The Commissioners shall only be liable to pay interest under this section on a claim made in writing for that purpose.
- [<sup>F635</sup>(11) A claim under this section shall not be made more than [<sup>F636</sup>4 years] after the end of the applicable period to which it relates.]
- (12) In this section—
- [<sup>F637</sup>(a) references to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off (whether under section 81(3) or otherwise) of the Commissioners' liability to pay that amount; and]
  - (b) any reference to a return is a reference to a return required to be made in accordance with paragraph 2 of Schedule 11.

#### Textual Amendments

- F631** Words in s. 78(1)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(2\)](#)
- F632** S. 78(1A) inserted (retrospectively) by [1997 c. 16, s. 44\(1\)](#)
- F633** Words in s. 78(3) substituted (1.4.1997 with effect as mentioned in [s. 197\(7\)](#) of the amending Act) by [1996 c. 8, s. 197\(6\)\(d\)\(ii\)\(7\)](#); [S.I. 1997/1015, art. 2](#)
- F634** S. 78(8)(8A)(9) substituted for s. 78(8)(9) (19.3.1997 with effect as mentioned in [s. 44\(5\)](#) of the amending Act) by [1997 c. 16, s. 44\(4\)\(5\)](#)
- F635** S. 78(11) substituted (with effect retrospectively as mentioned in [s. 44\(2\)](#) of the amending Act) by [1997 c. 16, s. 44\(2\)](#)
- F636** Words in s. 78(11) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 35](#); [S.I. 2009/403, art. 2\(1\)](#) (with [art. 5](#))

*Status: Point in time view as at 26/07/2021.*

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**F637** S. 78(12)(a) substituted (with effect retrospectively as mentioned in s. 44(3) of the amending Act) by 1997 c. 16, s. 44(3)

**Modifications etc. (not altering text)**

**C55** S. 78 amended (with effect retrospectively as mentioned in s. 44(2)(6) of the amending Act) by 1997 c. 16, s. 44(2)(6)

S. 78 power to amend (1.4.1997) by 1996 c. 8, s. 197(2)(c)(7); S.I. 1997/1015, art. 2

**C56** S. 78 applied (with modifications) (31.12.2020) by The Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/60), regs. 1, 8 (with reg. 3(1)(2)); S.I. 2020/1641, reg. 2, Sch.

**F638** [78A Assessment for interest overpayments.

- (1) Where—
  - (a) any amount has been paid to any person by way of interest under section 78, but
  - (b) that person was not entitled to that amount under that section,
 the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.
- (2) An assessment made under subsection (1) above shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.
- (3) Where an amount has been assessed and notified to any person under subsection (1) above, that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him and may be recovered accordingly.
- (4) Subsection (3) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.
- (5) An assessment under subsection (1) above shall be a recovery assessment for the purposes of section 84(3A).
- (6) Sections 74 and 77(6) apply in relation to assessments under subsection (1) above as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.
- (7) Where by virtue of subsection (6) above any person is liable to interest under section 74—
  - (a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to [F639(5)]; and
  - (b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;
 and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) above may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.
- (8) For the purposes of this section notification to a personal representative, trustee in bankruptcy, [F640 trustee in sequestration], receiver, liquidator or person otherwise

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acting in a representative capacity in relation to another shall be treated as notification to the person in relation to whom he so acts.]

#### Textual Amendments

- F638** S. 78A inserted (retrospective to 4.12.1996 and with effect as mentioned in s. 45(4) of the amending Act) by 1997 c. 16, s. 45(1)(4)
- F639** Word in s. 78A(7)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 70 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F640** Words in s. 78A(8) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 12(5)

#### Modifications etc. (not altering text)

- C57** S. 78A(2)-(4)(8) applied (1.4.2001) by S.I. 2001/759, reg. 4(3)
- C58** S. 78A(2)-(8) applied (4.12.1996 as mentioned in s. 49(8)(9) of the amending Act) by 1997 c. 16, s. 49(4)(8)

## 79 Repayment supplement in respect of certain delayed payments or refunds.

(1) In any case where—

- (a) a person is entitled to a VAT credit, or
- (b) a body which is registered and to which section 33 applies is entitled to a refund under that section <sup>F641</sup>, or
- (c) a body which is registered and to which section 33A applies is entitled to a refund under that section, [<sup>F642</sup>or
- (d) the proprietor of an Academy who is registered is entitled to a refund under section 33B,]<sup>F643</sup>or
- (e) a charity which is registered is entitled to a refund under section 33C,]

and the conditions mentioned in subsection (2) below are satisfied, the amount which, apart from this section, would be due by way of that payment or refund shall be increased by the addition of a supplement equal to 5 per cent. of that amount or £50, whichever is the greater.

(2) The said conditions are—

- (a) that the requisite return or claim is received by the Commissioners not later than the last day on which it is required to be furnished or made, and
- (b) that a written instruction directing the making of the payment or refund is not issued by the Commissioners within [<sup>F644</sup>the relevant period], and
- (c) that the amount shown on that return or claim as due by way of payment or refund does not exceed the payment or refund which was in fact due by more than 5 per cent. of that payment or refund or £250, whichever is the greater.

<sup>F645</sup>(2A) The relevant period in relation to a return or claim is the period of 30 days beginning with the later of—

- (a) the day after the last day of the prescribed accounting period to which the return or claim relates, and
- (b) the date of the receipt by the Commissioners of the return or claim.]

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- (3) Regulations may provide that, in computing the period of 30 days referred to in [F<sup>646</sup>subsection (2A)] above, there shall be left out of account periods determined in accordance with the regulations and referable to—
- (a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,
  - (b) the correction by the Commissioners of any errors or omissions in that return or claim, and
  - (c) in the case of a payment, the following matters, namely—
    - (i) any such continuing failure to submit returns as is referred to in section 25(5), and
    - (ii) compliance with any such condition as is referred to in paragraph 4(1) of Schedule 11.
- (4) In determining for the purposes of regulations under subsection (3) above whether any period is referable to the raising and answering of such an inquiry as is mentioned in that subsection, there shall be taken to be so referable any period which—
- (a) begins with the date on which the Commissioners first consider it necessary to make such an inquiry, and
  - (b) ends with the date on which the Commissioners—
    - (i) satisfy themselves that they have received a complete answer to the inquiry, or
    - (ii) determine not to make the inquiry or, if they have made it, not to pursue it further,
 but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person or body making the requisite return or claim or of an authorised person or of some other person.
- (5) Except for the purpose of determining the amount of the supplement—
- (a) a supplement paid to any person under subsection (1)(a) above shall be treated as an amount due to him by way of credit under section 25(3), and
  - (b) a supplement paid to any body under subsection (1)(b) above shall be treated as an amount due to it by way of refund under section 33 F<sup>647</sup>, and
  - (c) a supplement paid to any body under subsection (1)(c) shall be treated as an amount due to it by way of refund under section 33A F<sup>648</sup>, and
  - (d) a supplement paid to the proprietor of an Academy under subsection (1)(d) shall be treated as an amount due to that proprietor by way of refund under section 33B F<sup>649</sup>, and
  - (e) a supplement paid to a charity under subsection (1)(e) shall be treated as an amount due to the charity by way of refund under section 33C.]
- (6) In this section “requisite return or claim” means—
- (a) in relation to a payment, the return for the prescribed accounting period concerned which is required to be furnished in accordance with regulations under this Act, and
  - (b) in relation to a refund, the claim for that refund which is required to be made in accordance with the Commissioners’ determination under section 33 F<sup>650</sup> or (as the case may be) the Commissioners’ determination under, and the provisions of, section 33A F<sup>651</sup>, 33B or 33C].



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- (7) If the Treasury by order so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of 30 days referred to in [F646 subsection (2A)] above.

#### Textual Amendments

- F641** S. 79(1)(c) and the preceding word “or” inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. 98(5)(10)(11)
- F642** S. 79(1)(d) and word inserted (with effect in accordance with s. 76(5) of the amending Act) by Finance Act 2011 (c. 11), s. 76(2)(a)
- F643** S. 79(1)(e) and word inserted (with effect in accordance with s. 66(5) of the amending Act) by Finance Act 2015 (c. 11), s. 66(2)(a)
- F644** Words in s. 79(2)(b) substituted (27.7.1999 with effect as mentioned in s. 19(5) of the amending Act) by 1999 c. 16, s. 19(2)
- F645** S. 79(2A) inserted (27.7.1999 with effect as mentioned in s. 19(5) of the amending Act) by 1999 c. 16, s. 19(3)
- F646** Words in s. 79(3)(7) substituted (27.7.1999 with effect as mentioned in s. 19(5) of the amending Act) by 1999 c. 16, s. 19(4)
- F647** S. 79(5)(c) and the preceding word “and” inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. 98(6)(10)(11)
- F648** S. 79(5)(d) and word inserted (with effect in accordance with s. 76(5) of the amending Act) by Finance Act 2011 (c. 11), s. 76(2)(b)
- F649** S. 79(5)(e) and word inserted (with effect in accordance with s. 66(5) of the amending Act) by Finance Act 2015 (c. 11), s. 66(2)(b)
- F650** Words in s. 79(6)(b) inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. 98(7)(10)(11)
- F651** Words in s. 79(6)(b) substituted (with effect in accordance with s. 66(5) of the amending Act) by Finance Act 2015 (c. 11), s. 66(2)(c)

## 80 [F652 Credit for, or repayment of, overstated or overpaid VAT]

[F653(1) Where a person—

- (a) has accounted to the Commissioners for VAT for a prescribed accounting period (whenever ended), and
- (b) in doing so, has brought into account as output tax an amount that was not output tax due,

the Commissioners shall be liable to credit the person with that amount.

(1A) Where the Commissioners—

- (a) have assessed a person to VAT for a prescribed accounting period (whenever ended), and
- (b) in doing so, have brought into account as output tax an amount that was not output tax due,

they shall be liable to credit the person with that amount.

(1B) Where a person has for a prescribed accounting period (whenever ended) paid to the Commissioners an amount by way of VAT that was not VAT due to them, otherwise than as a result of—

- (a) an amount that was not output tax due being brought into account as output tax, or

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- (b) an amount of input tax allowable under section 26 not being brought into account,  
the Commissioners shall be liable to repay to that person the amount so paid.]
- (2) The Commissioners shall only be liable to [<sup>F654</sup>credit or] repay an amount under this section on a claim being made for the purpose.
- [<sup>F655</sup>(2A) Where—
- (a) as a result of a claim under this section by virtue of subsection (1) or (1A) above an amount falls to be credited to a person, and
- (b) after setting any sums against it under or by virtue of this Act, some or all of that amount remains to his credit,
- the Commissioners shall be liable to pay (or repay) to him so much of that amount as so remains.]
- (3) It shall be a defence, in relation to a claim [<sup>F656</sup>under this section by virtue of subsection (1) or (1A) above, that the crediting] of an amount would unjustly enrich the claimant.
- [<sup>F657</sup>(3A) Subsection (3B) below applies for the purposes of subsection (3) above where—
- (a) an amount would (apart from subsection (3) above) fall to be credited under subsection (1) or (1A) above to any person (“the taxpayer”), and
- (b) the whole or a part of the amount brought into account as mentioned in paragraph (b) of that subsection has, for practical purposes, been borne by a person other than the taxpayer.]
- (3B) Where, in a case to which this subsection applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any VAT provisions, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination—
- (a) of whether or to what extent the [<sup>F658</sup>crediting] of an amount to the taxpayer would enrich him; or
- (b) of whether or to what extent any enrichment of the taxpayer would be unjust.
- (3C) In subsection (3B) above—
- “the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions; and
- “VAT provisions” means the provisions of—
- (a) any enactment [<sup>F659</sup>or subordinate legislation] (whether or not still in force) which relates to VAT or to any matter connected with VAT; or
- (b) any notice published by the Commissioners under or for the purposes of any such enactment or subordinate legislation.
- [<sup>F660</sup>(4) The Commissioners shall not be liable on a claim under this section—
- (a) to credit an amount to a person under subsection (1) or (1A) above, or
- (b) to repay an amount to a person under subsection (1B) above,
- if the claim is made more than [<sup>F661</sup>4 years] after the relevant date.
- (4ZA) The relevant date is—

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- (a) in the case of a claim by virtue of subsection (1) above, the end of the prescribed accounting period mentioned in that subsection, unless paragraph (b) below applies;
- (b) in the case of a claim by virtue of subsection (1) above in respect of an erroneous voluntary disclosure, the end of the prescribed accounting period in which the disclosure was made;
- (c) in the case of a claim by virtue of subsection (1A) above in respect of an assessment issued on the basis of an erroneous voluntary disclosure, the end of the prescribed accounting period in which the disclosure was made;
- (d) in the case of a claim by virtue of subsection (1A) above in any other case, the end of the prescribed accounting period in which the assessment was made;
- (e) in the case of a claim by virtue of subsection (1B) above, the date on which the payment was made.

In the case of a person who has ceased to be registered under this Act, any reference in paragraphs (b) to (d) above to a prescribed accounting period includes a reference to a period that would have been a prescribed accounting period had the person continued to be registered under this Act.

(4ZB) For the purposes of this section the cases where there is an erroneous voluntary disclosure are those cases where—

- (a) a person discloses to the Commissioners that he has not brought into account for a prescribed accounting period (whenever ended) an amount of output tax due for the period;
- (b) the disclosure is made in a later prescribed accounting period (whenever ended); and
- (c) some or all of the amount is not output tax due.]

[<sup>F662</sup>(4A) Where—

- (a) an amount has been credited under subsection (1) or (1A) above to any person at any time on or after 26th May 2005, and
- (b) the amount so credited exceeded the amount which the Commissioners were liable at that time to credit to that person,

the Commissioners may, to the best of their judgement, assess the excess credited to that person and notify it to him.]

[<sup>F663</sup>(4AA) An assessment under subsection (4A) shall not be made more than 2 years after the later of—

- (a) the end of the prescribed accounting period in which the amount was credited to the person, and
- (b) the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.]

(4C) Subsections [<sup>F664</sup>(3)] to (8) of section 78A apply in the case of an assessment under subsection (4A) above as they apply in the case of an assessment under section 78A(1).

- (6) A claim under this section shall be made in such form and manner and shall be supported by such documentary evidence as the Commissioners prescribe by regulations; and regulations under this subsection may make different provision for different cases.

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[<sup>F665</sup>(7) Except as provided by this section <sup>F666</sup>..., the Commissioners shall not be liable to credit or repay any amount accounted for or paid to them by way of VAT that was not VAT due to them.]

#### Textual Amendments

- F652** S. 80 side-note substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(11\)](#)
- F653** S. 80(1)-(1B) substituted for s. 80(1) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(2\)](#)
- F654** Words in s. 80(2) inserted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(3\)](#)
- F655** S. 80(2A) inserted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(4\)](#)
- F656** Words in s. 80(3) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(5\)](#)
- F657** S. 80(3A) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(6\)](#)
- F658** Word in s. 80(3B)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(7\)](#)
- F659** Words in s. 80(3C) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 71\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F660** S. 80(4)(4ZA)(4ZB) substituted for s. 80(4) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(8\)](#)
- F661** Words in s. 80(4) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 36](#); [S.I. 2009/403, art. 2\(1\)](#) (with [art. 6](#))
- F662** S. 80(4A) substituted for s. 80(4A)(4B) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(9\)](#)
- F663** S. 80(4AA) inserted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\), s. 120\(3\)\(5\)](#)
- F664** Word in s. 80(4C) substituted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\), s. 120\(4\)\(5\)](#)
- F665** S. 80(7) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(10\)](#)
- F666** Words in s. 80(7) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 71\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

#### Modifications etc. (not altering text)

- C59** S. 80(4) modified (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\), s. 121\(1\)\(4\)](#)

#### [<sup>F667</sup>80A Arrangements for reimbursing customers.

- (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 80(3) except where the arrangements—
- contain such provision as may be required by the regulations; and
  - are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.

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- (2) In this section “ reimbursement arrangements ” means any arrangements for the purposes of a claim under section 80 which—
- (a) are made by any person for the purpose of securing that he is not unjustly enriched by the [<sup>F668</sup>crediting] of any amount in pursuance of the claim; and
  - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of [<sup>F669</sup>the amount brought into account as mentioned in paragraph (b) of subsection (1) or (1A) of that section] .
- (3) Without prejudice to the generality of subsection (1) above, the provision that may be required by regulations under this section to be contained in reimbursement arrangements includes—
- (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the [<sup>F670</sup>crediting of the amount] to which it relates as may be specified in the regulations;
  - [<sup>F671</sup>(b) provision for cases where an amount is credited but an equal amount is not reimbursed in accordance with the arrangements;]
  - (c) provision requiring interest paid by the Commissioners on any amount [<sup>F672</sup>paid (or repaid)] by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
  - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.
- (4) Regulations under this section may impose obligations on such persons as may be specified in the regulations—
- (a) [<sup>F673</sup>to make the repayments, or give the notifications, to the Commissioners that they are required to make or give] in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c) above;
  - (b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d) above.
- (5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.
- (6) Regulations under this section may—
- (a) contain any such incidental, supplementary, consequential or transitional provision as appears to the Commissioners to be necessary or expedient; and
  - (b) make different provision for different circumstances.
- (7) Regulations under this section may have effect (irrespective of when the claim for [<sup>F674</sup>credit] was made) for the purposes of [<sup>F675</sup>the crediting of any amount] by the Commissioners after the time when the regulations are made; and, accordingly, such regulations may apply to arrangements made before that time.]

#### Textual Amendments

**F667** Ss. 80A, 80B inserted (19.3.1997) by 1997 c. 16, s. 46(2)

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- F668** Word in s. 80A(2)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(a\)](#)
- F669** Words in s. 80A(2)(b) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(b\)](#)
- F670** Words in s. 80A(3)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(c\)](#)
- F671** S. 80A(3)(b) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(d\)](#)
- F672** Words in s. 80A(3)(c) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(e\)](#)
- F673** Words in s. 80A(4)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(f\)](#)
- F674** Word in s. 80A(7) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(g\)\(i\)](#)
- F675** Words in s. 80A(7) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 4\(3\)\(g\)\(ii\)](#)

**[<sup>F676</sup>80B Assessments of amounts due under section 80A arrangements.**

- (1) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of section 80A(4)(a), the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.

[ Where—

- <sup>F677</sup>(1A) (a) an amount (“the gross credit”) has been credited to any person under subsection (1) or (1A) of section 80,  
(b) any sums were set against that amount, in accordance with subsection (2A) of that section, and  
(c) the amount reimbursed in accordance with the reimbursement arrangements was less than the gross credit,  
subsection (1B) below applies.

(1B) In any such case—

- (a) the person shall cease to be entitled to so much of the gross credit as exceeds the amount so reimbursed, and  
(b) the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him,

but an amount shall not be assessed under this subsection to the extent that the person is liable to pay it to the Commissioners as mentioned in subsection (1) above.

(1C) In determining the amount that a person is liable to pay as mentioned in subsection (1) above, any amount reimbursed in accordance with the reimbursement arrangements shall be regarded as first reducing so far as possible the amount that he would have been liable so to pay, but for the reimbursement of that amount.

(1D) For the purposes of this section, nil is an amount.

(1E) Any reference in any other provision of this Act to an assessment under subsection (1) above includes, if the context so admits, a reference to an assessment under subsection (1B) above.]

- (2) Subsections (2) to (8) of section 78A apply in the case of an assessment under subsection (1) above as they apply in the case of an assessment under section 78A(1).]

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### Textual Amendments

**F676** Ss. 80A, 80B inserted (19.3.1997) by 1997 c. 16, s. 46(2)

**F677** Ss. 80B(1A)-(1E) inserted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(4)

## 81 Interest given by way of credit and set-off of credits.

- (1) Any interest payable by the Commissioners (whether under an enactment or instrument or otherwise) to a person on a sum due to him under or by virtue of any provision of this Act shall be treated as an amount due by way of credit under section 25(3).
- (2) Subsection (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.
- (3) Subject to subsection (1) above, in any case where—
  - (a) an amount is due from the Commissioners to any person under any provision of this Act, and
  - (b) that person is liable to pay a sum by way of VAT, penalty, interest or surcharge, the amount referred to in paragraph (a) above shall be set against the sum referred to in paragraph (b) above and, accordingly, to the extent of the set-off, the obligations of the Commissioners and the person concerned shall be discharged.

[<sup>F678</sup>(3A) Where—

- (a) the Commissioners are liable to pay or repay any amount to any person under this Act,
- (b) that amount falls to be paid or repaid in consequence of a mistake previously made about whether or to what extent amounts were payable under this Act to or by that person, and
- (c) by reason of that mistake a liability of that person to pay a sum by way of VAT, penalty, interest or surcharge was not assessed, was not enforced or was not satisfied,

any limitation on the time within which the Commissioners are entitled to take steps for recovering that sum shall be disregarded in determining whether that sum is required by subsection (3) above to be set against the amount mentioned in paragraph (a) above.]

[<sup>F679</sup>(4A) Subsection (3) above shall not require any such amount as is mentioned in paragraph (a) of that subsection (“the credit”) to be set against any such sum as is mentioned in paragraph (b) of that subsection (“the debit”) in any case where—

- (a) an insolvency procedure has been applied to the person entitled to the credit;
- (b) the credit became due after that procedure was so applied; and
- (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.

(4B) Subject to subsection (4C) below, the following are the times when an insolvency procedure is to be taken, for the purposes of this section, to be applied to any person, that is to say—

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- [<sup>F680</sup>(a) when a bankruptcy order or winding-up order or award of sequestration is made or an administrator is appointed in relation to that person;]
- (b) when that person is put into administrative receivership;
- (c) when that person, being a corporation, passes a resolution for voluntary winding up;
- (d) when any voluntary arrangement approved in accordance with Part I or VIII of the Insolvency Act 1986, or Part II or Chapter II of Part VIII of the <sup>M21</sup> Insolvency (Northern Ireland) Order 1989, comes into force in relation to that person;
- (e) when a deed of arrangement registered in accordance with <sup>F681</sup>... Chapter I of Part VIII of that Order of 1989 takes effect in relation to that person;
- (f) when that person’s estate becomes vested in any other person as that person’s trustee under a trust deed.
- [<sup>F682</sup>(4C) In this section, references to the application of an insolvency procedure to a person do not include—
- (a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or
- (b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect.]
- (4D) For the purposes of this section a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person, and the reference in subsection (4B) above to a person being put into administrative receivership shall be construed accordingly.]
- (5) In [<sup>F683</sup>this section]—
- <sup>F684</sup>(a) .....
- (b) “administrative receiver” means an administrative receiver within the meaning of section 251 of [<sup>F685</sup>the Insolvency Act 1986] or Article 5(1) of [<sup>F686</sup>the Insolvency (Northern Ireland) Order 1989];
- [<sup>F687</sup>(ba) “administrator” means a person appointed to manage the affairs, business and property of another person under Schedule B1 to that Act or to that Order;] and
- (c) “trust deed” has the same meaning as in the <sup>M22</sup>Bankruptcy (Scotland) Act [<sup>F688</sup>2016].

### Textual Amendments

- F678** S. 81(3A) inserted (retrospective to 18.7.1996 with effect as mentioned in s. 48(2) of the amending Act) by 1997 c. 16, s. 48(1)(2)
- F679** S. 81(4A)-(4D) substituted for s. 81(4) (1.5.1995 with effect as mentioned in s. 27(4) of the amending Act) by 1995 c. 4, s. 27(2)
- F680** S. 81(4B)(a) substituted (15.9.2003) by Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), Sch. para. 26(a) (with art. 6)
- F681** Words in s. 81(4B)(e) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), Sch. 6 para. 2(13) (with Sch. 6 para. 3); S.I. 2015/1732, art. 2(e)(i)
- F682** S. 81(4C) substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 132(2)
- F683** Words in s. 81(5) substituted (1.5.1995 with effect as mentioned in s. 27(4) of the amending Act) by 1995 c. 4, s. 27(3)
- F684** S. 81(5)(a) omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), s. 132(3)(a)
- F685** Words in s. 81(5)(b) substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 132(3)(b)(i)



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- F686** Words in s. 81(5)(b) substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 132(3)(b)(ii)  
**F687** S. 81(5)(ba) inserted (21.7.2008) by Finance Act 2008 (c. 9), s. 132(3)(c)  
**F688** Word in s. 81(5)(c) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 12(6)

#### Marginal Citations

- M21** 1986 c. 45.  
**M22** 1985 c. 66.

## PART V

### [<sup>F689</sup>REVIEWS AND APPEALS]

#### Textual Amendments

- F689** Pt. V heading substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 217

#### Modifications etc. (not altering text)

- C60** Pt. V applied (with modifications) (15.12.2007) by The Money Laundering Regulations 2007 (S.I. 2007/2157), regs. 1(1), 44(3), Sch. 5 para. 1  
**C61** Pt. V applied (with modifications) (15.12.2007) by The Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298), regs. 1(1), 13(4), Sch. 2 para. 2  
**C62** Pt. V applied (with modifications) by S.I. 2007/2157, reg. 43(3) (as substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 2 para. 172(4))  
**C63** Pt. V modified by S.I. 2007/2157, Sch. 5 para. 1 (as substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 2 para. 175)  
**C64** Pt. V modified by S.I. 2007/3298, Sch. 2 para. 2 (as substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 2 para. 181)  
**C65** Pt. V applied (with modifications) by S.I. 2007/3298, reg. 12(2) (as substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 2 para. 178(4))  
**C66** Pt. V applied (with modifications) (26.6.2017) by The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692), regs. 1(2), 99(2)(3) (with regs. 8, 15)  
**C67** Pt. 5 applied (with modifications) (31.12.2020) by The Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/60), regs. 1, 10(2) (with reg. 3(1)(2)); S.I. 2020/1641, reg. 2, Sch.  
**C68** Pt. 5 modified (9.3.2021) by Finance Act 2021 (c. 26), s. 99(2), Sch. 19 para. 9

#### [<sup>F690</sup>82 Meaning of “tribunal”

In this Act “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.]

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### Textual Amendments

**F690** S. 82 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 218](#)

## 83 Appeals.

- [<sup>F691</sup>(1)] Subject to [<sup>F692</sup>sections 83G and 84], an appeal shall lie to [<sup>F693</sup>the tribunal] with respect to any of the following matters—
- (a) the registration or cancellation of registration of any person under this Act;
  - (b) the VAT chargeable on the supply of any goods or services <sup>F694</sup>... or, subject to section 84(9), on the importation of goods <sup>F695</sup>... ;
  - (c) the amount of any input tax which may be credited to a person;
  - <sup>F696</sup>(d) .....
  - [<sup>F697</sup>(da) a decision of the Commissioners under section 18A—
    - (i) as to whether or not a person is to be approved as a fiscal warehousekeeper or the conditions from time to time subject to which he is so approved;
    - (ii) for the withdrawal of any such approval; or
    - (iii) for the withdrawal of fiscal warehouse status from any premises;]
  - (e) the proportion of input tax allowable under section 26;
  - (f) a claim by a taxable person under section 27;
  - [<sup>F698</sup>(fza) a decision of the Commissioners—
    - (i) refusing or withdrawing authorisation for a person's liability to pay VAT (or entitlement to credit for VAT) to be determined as mentioned in subsection (1) of section 26B;
    - (ii) as to the appropriate percentage or percentages (within the meaning of that section) applicable in a person's case.]
  - [<sup>F699</sup>(fa) a decision contained in a notification under paragraph (4) of article 12A of the Value Added Tax (Payments on Account) Order 1993 that an election under paragraph (1) of that article shall cease to have effect;]
  - (g) the amount of any refunds under section 35;
  - (h) a claim for a refund under section 36 or section 22 of the 1983 Act;
  - [<sup>F700</sup>(ha) any decision of the Commissioners to refuse to make a repayment under a scheme under section 39;]
  - <sup>F701</sup>(j) .....
  - [<sup>F702</sup>(k) the refusal of an application such as is mentioned in section 43B(1) or (2);
  - (ka) the giving of a notice under section 43C(1) or (3);]
    - (l) the requirement of any security under section 48(7) or [<sup>F703</sup>paragraph 4(1A) or (2)] of Schedule 11;
  - (m) any refusal or cancellation of certification under section 54 or any refusal to cancel such certification;
  - (n) any liability to a penalty or surcharge by virtue of any of sections [<sup>F704</sup>59 to [<sup>F705</sup>69B]];
  - [<sup>F706</sup>(na) any liability to a penalty under section 69C, any assessment of a penalty under that section or the amount of such an assessment;

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- (nb) the giving of a decision notice under section 69D or the portion of a penalty assessed under section 69C which is specified in such a notice;]
- (o) a decision of the Commissioners under section 61 (in accordance with section 61(5));
- (p) an assessment—
  - (i) under section 73(1) or (2) in respect of a period for which the appellant has made a return under this Act; or
  - (ii) under [<sup>F707</sup>subsections (7), (7A) or (7B)] of that section; <sup>F708</sup> ...
  - <sup>F708</sup>(iii) . . . . .or the amount of such an assessment;
- (q) the amount of any penalty, interest or surcharge specified in an assessment under section 76;
- (r) the making of an assessment on the basis set out in section 77(4);
- [<sup>F709</sup>(ra) any liability arising by virtue of section 77A;]
- [<sup>F710</sup>(rb) an assessment under section 77C or the amount of such an assessment;]
- (s) any liability of the Commissioners to pay interest under section 78 or the amount of interest so payable;
- [<sup>F711</sup>(sa) an assessment under section 78A(1) or the amount of such an assessment]
- (t) a claim for the [<sup>F712</sup>crediting or] repayment of an amount under section 80 [<sup>F713</sup>an assessment under subsection (4A) of that section or the amount of such an assessment];
- [<sup>F714</sup>(ta) an assessment under section 80B(1) [<sup>F715</sup>or (1B)] or the amount of such an assessment]
- (u) any direction or supplementary direction made under paragraph 2 of Schedule 1;
- (v) any direction under paragraph 1 [<sup>F716</sup>, 1A][<sup>F717</sup>, 2 or 8A] of Schedule 6 or under paragraph 2 of Schedule 4 to the 1983 Act;
- <sup>F718</sup>(w) . . . . .
- [<sup>F719</sup>(wa) any direction or assessment under Schedule 9A;]
- [<sup>F720</sup>(wb) any refusal of the Commissioners to grant any permission under, or otherwise to exercise in favour of a particular person any power conferred by, any provision of Part 1 of Schedule 10;]
- (x) any refusal to permit the value of supplies to be determined by a method described in a notice published under paragraph 2(6) of Schedule 11;
- (y) any refusal of authorisation or termination of authorisation in connection with the scheme made under paragraph 2(7) of Schedule 11;
- [<sup>F721</sup>(z) any conditions imposed by the Commissioners in a particular case by virtue of paragraph 2B(2)(c) or 3(1) of Schedule 11.]
- [<sup>F722</sup>(zza) a direction under paragraph 6A of Schedule 11;]
- <sup>F723</sup>(zz) . . . . .
- [<sup>F724</sup>(za) a direction under paragraph 8 of Schedule 11A,
- (zb) any liability to a penalty under paragraph 10(1) of Schedule 11A, any assessment under paragraph 12(1) of that Schedule or the amount of such an assessment;]
- [<sup>F725</sup>(zc) a decision of the Commissioners about the application of any provision of regulations under paragraph 2 or 6 of Schedule 11, or of regulations under section 135 or 136 of the Finance Act 2002 relating to VAT, which—

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- (i) requires returns to be made or information to be submitted by electronic communications, or
- (ii) requires records to be kept or preserved in electronic form, (including in particular a decision as to whether such a requirement applies and a decision to impose a penalty).]

[<sup>F726</sup>(2) In the following provisions of this Part, a reference to a decision with respect to which an appeal under this section lies, or has been made, includes any matter listed in subsection (1) whether or not described there as a decision.]

### Textual Amendments

- F691** S. 83 renumbered as s. 83(1) (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 219(2)**
- F692** Words in s. 83(1) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 219(3)**
- F693** Words in s. 83(1) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 219(4)**
- F694** Words in s. 83(1)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 72(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F695** Words in s. 83(1)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 72(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F696** S. 83(1)(d) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 72(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F697** S. 83(da) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 12**; S.I. 1996/1249, **art. 2**
- F698** S. 83(fza) inserted (retrospective to 24.4.2002) by Finance Act 2002 (c. 23), s. **23(2)(4)**
- F699** S. 83(fa) inserted (1.12.1997) by S.I. 1997/2542, **art 2**
- F700** S. 83(1)(ha) inserted (21.7.2009) by Finance Act 2009 (c. 10), s. **77(4)**
- F701** S. 83(1)(j) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 72(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F702** S. 83(k)(ka) substituted (27.7.1999) for s. 83(k) by 1999 c. 16, s. 16, **Sch. 2 para. 3**
- F703** Words in s. 83(l) substituted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), s. **17(6)(8)**
- F704** Words in s. 83(n) substituted (28.7.2000) by 2000 c. 17, s. **137(5)**
- F705** Word in s. 83(n) substituted (19.7.2006) by Finance Act 2006 (c. 25), s. **21(4)(a)**
- F706** S. 83(1)(na)(nb) inserted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. **68(5)**
- F707** Words in s. 83(p)(ii) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 12**; S.I. 1996/1249, **art. 2**
- F708** S. 83(1)(p)(iii) and word omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 72(d)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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- F709** S. 83(ra) inserted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), s. 18(2)(4)
- F710** S. 83(1)(rb) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 124(3)
- F711** S. 83(sa) inserted (retrospective to 4.12.1996) by 1997 c. 16, s. 45(2)(5)
- F712** Words in s. 83(t) inserted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(5)(a)
- F713** Words in s. 83(t) inserted (retrospective to 4.12.1996) by 1997 c. 16, s. 47(7)(9)
- F714** S. 83(ta) inserted (19.3.1997) by 1997 c. 16, s. 46(3)
- F715** Words in s. 83(ta) inserted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(5)(b)
- F716** Words in s. 83(v) inserted (22.7.2004) by Finance Act 2004 (c. 12), s. 22(3)
- F717** Words in s. 83(1)(v) substituted (with effect in accordance with s. 200(8) of the amending Act) by Finance Act 2012 (c. 14), s. 200(3)
- F718** S. 83(1)(w) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 72(e) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F719** S. 83(wa) inserted (29.4.1996) by 1996 c. 8, s. 31(3)
- F720** S. 83(wb) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Value Added Tax (Buildings and Land) Order 2008 (S.I. 2008/1146), arts. 1(1), 3(2) (with Sch. 2)
- F721** S. 83(z) substituted (1.12.2003) by Finance Act 2002 (c. 23), s. 24(4)(b)(5); S.I. 2003/3043, art. 2
- F722** S. 83(zza) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 21(4)(b)
- F723** S. 83(zz) omitted (15.12.2007) by virtue of The Money Laundering Regulations 2007 (S.I. 2007/2157), reg. 1(1), Sch. 6 para. 1
- F724** S. 83(za)(zb) inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by Finance Act 2004 (c. 12), s. 19(2), Sch. 2 para. 4; S.I. 2004/1934, art. 2
- F725** S. 83(1)(zc) substituted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. 62(5)
- F726** S. 83(2) inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 219(5)

#### Modifications etc. (not altering text)

- C69** S. 83(1) modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, 18 (with reg. 15); S.I. 2020/1641, reg. 2, Sch.
- C70** S. 83(c) modified (20.10.1995) by S.I. 1995/2518, regs. 182, 195

#### [<sup>F727</sup> 83A Offer of review

- (1) HMRC must offer a person (P) a review of a decision that has been notified to P if an appeal lies under section 83 in respect of the decision.
- (2) The offer of the review must be made by notice given to P at the same time as the decision is notified to P.
- (3) This section does not apply to the notification of the conclusions of a review.

#### Textual Amendments

- F727** Ss. 83A-83G inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 220

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### 83B Right to require review

- (1) Any person (other than P) who has the right of appeal under section 83 against a decision may require HMRC to review that decision if that person has not appealed to the tribunal under section 83G.
- (2) A notification that such a person requires a review must be made within 30 days of that person becoming aware of the decision.

#### Textual Amendments

**F727** Ss. 83A-83G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 220**

### 83C Review by HMRC

- (1) HMRC must review a decision if—
  - (a) they have offered a review of the decision under section 83A, and
  - (b) P notifies HMRC accepting the offer within 30 days from the date of the document containing the notification of the offer.
- (2) But P may not notify acceptance of the offer if P has already appealed to the tribunal under section 83G.
- (3) HMRC must review a decision if a person other than P notifies them under section 83B.
- (4) HMRC shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.

#### Textual Amendments

**F727** Ss. 83A-83G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 220**

### 83D Extensions of time

- (1) If under section 83A HMRC have offered P a review of a decision, HMRC may within the relevant period notify P that the relevant period is extended.
- (2) If under section 83B another person may require HMRC to review a matter, HMRC may within the relevant period notify the other person that the relevant period is extended.
- (3) If notice is given the relevant period is extended to the end of 30 days from—
  - (a) the date of the notice, or
  - (b) any other date set out in the notice or a further notice.
- (4) In this section “relevant period” means—
  - (a) the period of 30 days referred to in—
    - (i) section 83C(1)(b) (in a case falling within subsection (1)), or
    - (ii) section 83B(2) (in a case falling within subsection (2)), or

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- (b) if notice has been given under subsection (1) or (2), that period as extended (or as most recently extended) in accordance with subsection (3).

#### Textual Amendments

**F727** Ss. 83A-83G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 220**

### 83E Review out of time

- (1) This section applies if—
- (a) HMRC have offered a review of a decision under section 83A and P does not accept the offer within the time allowed under section 83C(1)(b) or 83D(3); or
  - (b) a person who requires a review under section 83B does not notify HMRC within the time allowed under that section or section 83D(3).
- (2) HMRC must review the decision under section 83C if—
- (a) after the time allowed, P, or the other person, notifies HMRC in writing requesting a review out of time,
  - (b) HMRC are satisfied that P, or the other person, had a reasonable excuse for not accepting the offer or requiring review within the time allowed, and
  - (c) HMRC are satisfied that P, or the other person, made the request without unreasonable delay after the excuse had ceased to apply.
- (3) HMRC shall not review a decision if P, or another person, has appealed to the tribunal under section 83G in respect of the decision.

#### Textual Amendments

**F727** Ss. 83A-83G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 220**

### 83F Nature of review etc

- (1) This section applies if HMRC are required to undertake a review under section 83C or 83E.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
- (a) by HMRC in reaching the decision, and
  - (b) by any person in seeking to resolve disagreement about the decision.
- (4) The review must take account of any representations made by P, or the other person, at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that the decision is to be—
- (a) upheld,
  - (b) varied, or

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- (c) cancelled.
- (6) HMRC must give P, or the other person, notice of the conclusions of the review and their reasoning within—
  - (a) a period of 45 days beginning with the relevant date, or
  - (b) such other period as HMRC and P, or the other person, may agree.
- (7) In subsection (6) “relevant date” means—
  - (a) the date HMRC received P’s notification accepting the offer of a review (in a case falling within section 83A), or
  - (b) the date HMRC received notification from another person requiring review (in a case falling within section 83B), or
  - (c) the date on which HMRC decided to undertake the review (in a case falling within section 83E).
- (8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that the decision is upheld.
- (9) If subsection (8) applies, HMRC must notify P or the other person of the conclusion which the review is treated as having reached.

#### Textual Amendments

**F727** Ss. 83A-83G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 220**

### 83G Bringing of appeals

- (1) An appeal under section 83 is to be made to the tribunal before—
  - (a) the end of the period of 30 days beginning with—
    - (i) in a case where P is the appellant, the date of the document notifying the decision to which the appeal relates, or
    - (ii) in a case where a person other than P is the appellant, the date that person becomes aware of the decision, or
  - (b) if later, the end of the relevant period (within the meaning of section 83D).
- (2) But that is subject to subsections (3) to (5).
- (3) In a case where HMRC are required to undertake a review under section 83C—
  - (a) an appeal may not be made until the conclusion date, and
  - (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.
- <sup>F728</sup>(4) In a case where HMRC are requested to undertake a review in accordance with section 83E—
  - (a) an appeal may not be made—
    - (i) unless HMRC have notified P, or the other person, as to whether or not a review will be undertaken, and
    - (ii) if HMRC have notified P, or the other person, that a review will be undertaken, until the conclusion date;



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- (b) any appeal where paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date;
  - (c) if HMRC have notified P, or the other person, that a review will not be undertaken, an appeal may be made only if the tribunal gives permission to do so.]
- (5) In a case where section 83F(8) applies, an appeal may be made at any time from the end of the period specified in section 83F(6) to the date 30 days after the conclusion date.
- (6) An appeal may be made after the end of the period specified in subsection (1), (3)(b), (4)(b) or (5) if the tribunal gives permission to do so.
- (7) In this section “conclusion date” means the date of the document notifying the conclusions of the review.]

#### Textual Amendments

**F727** Ss. 83A-83G inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 220**

**F728** S. 83G(4) substituted (1.6.2014) by [The Revenue and Customs \(Amendment of Appeal Provisions for Out of Time Reviews\) Order 2014 \(S.I. 2014/1264\)](#), arts. 1(2), 4 (with art. 1(3))

#### 84 Further provisions relating to appeals.

(1) References in this section to an appeal are references to an appeal under section 83.

<sup>F729</sup>(2) . . . . .

[<sup>F730</sup>(3) Subject to subsections (3B) and (3C), where the appeal is against a decision with respect to any of the matters mentioned in section 83(1)(b), (n), (p), (q), (ra) [<sup>F731</sup>, (rb)] or (zb), it shall not be entertained unless the amount which HMRC have determined to be payable as VAT has been paid or deposited with them.]

[<sup>F732</sup>(3A) Subject to subsections (3B) and (3C), where the appeal is against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, it shall not be entertained unless the amount notified by the assessment has been paid or deposited with HMRC.]

[<sup>F733</sup>(3B) In a case where the amount determined to be payable as VAT or the amount notified by the recovery assessment has not been paid or deposited an appeal shall be entertained if—

- (a) HMRC are satisfied (on the application of the appellant), or
- (b) the tribunal decides (HMRC not being so satisfied and on the application of the appellant),  
that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(3C) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.]

(4) Subject to subsection (11) below, where—

- (a) there is an appeal against a decision of [<sup>F734</sup>HMRC] with respect to, or to so much of any assessment as concerns, the amount of input tax that may

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be credited to any person or the proportion of input tax allowable under section 26, and

- (b) that appeal relates, in whole or in part, to any determination by <sup>[F734]</sup>HMRC—
  - (i) as to the purposes for which any goods or services were or were to be used by any person, or
  - (ii) as to whether or to what extent the matters to which any input tax was attributable were or included matters other than the making of supplies within section 26(2), and
- (c) VAT for which, in pursuance of that determination, there is no entitlement to a credit is VAT on the supply <sup>F735</sup>... or importation of something in the nature of a luxury, amusement or entertainment,

the tribunal shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless it considers that the determination is one which it was unreasonable to make or which it would have been unreasonable to make if information brought to the attention of the tribunal that could not have been brought to the attention of <sup>[F734]</sup>HMRC had been available to be taken into account when the determination was made.

<sup>[F736]</sup>(4ZA) Where an appeal is brought—

- (a) against such a decision as is mentioned in section <sup>[F737]</sup>83(1)(fza), or
- (b) to the extent that it is based on such a decision, against an assessment,

the tribunal shall not allow the appeal unless it considers that <sup>[F738]</sup>HMRC could not reasonably have been satisfied that there were grounds for the decision.]

<sup>[F739]</sup>(4A) Where an appeal is brought against the refusal of an application such as is mentioned in section 43B(1) or (2) on the grounds stated in section 43B(5)(c)—

- (a) the tribunal shall not allow the appeal unless it considers that <sup>[F740]</sup>HMRC could not reasonably have been satisfied that there were grounds for refusing the application,
- (b) the refusal shall have effect pending the determination of the appeal, and
- (c) if the appeal is allowed, the refusal shall be deemed not to have occurred.

(4B) Where an appeal is brought against the giving of a notice under section 43C(1) or (3)—

- (a) the notice shall have effect pending the determination of the appeal, and
- (b) if the appeal is allowed, the notice shall be deemed never to have had effect.

(4C) Where an appeal is brought against the giving of a notice under section 43C(1), the tribunal shall not allow the appeal unless it considers that <sup>[F741]</sup>HMRC could not reasonably have been satisfied that there were grounds for giving the notice.

(4D) Where—

- (a) an appeal is brought against the giving of a notice under section 43C(3), and
  - (b) the grounds of appeal relate wholly or partly to the date specified in the notice,
- the tribunal shall not allow the appeal in respect of the date unless it considers that <sup>[F742]</sup>HMRC could not reasonably have been satisfied that it was appropriate.]

<sup>[F743]</sup>(4E) Where an appeal is brought against a requirement imposed under paragraph 4(2)(b) of Schedule 11 that a person give security, the tribunal shall allow the appeal unless <sup>[F744]</sup>HMRC satisfies] the tribunal that—

- (a) there has been an evasion of, or an attempt to evade, VAT in relation to goods or services supplied to or by that person, or

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- (b) it is likely, or without the requirement for security it is likely, that VAT in relation to such goods or services will be evaded.
- (4F) A reference in subsection (4E) above to evading VAT includes a reference to obtaining a VAT credit that is not due or a VAT credit in excess of what is due.]
- (5) Where, on an appeal against a decision with respect to any of the matters mentioned in section [F74583(1)](p) [F746 or (rb)] —
- (a) it is found that the amount specified in the assessment is less than it ought to have been, and
- (b) the tribunal gives a direction specifying the correct amount,
- the assessment shall have effect as an assessment of the amount specified in the direction, and that amount shall be deemed to have been notified to the appellant.
- (6) Without prejudice to section 70, <sup>F747</sup>... nothing in section [F74883(1)](q) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty, interest or surcharge except in so far as it is necessary to reduce it to the amount which is appropriate under sections 59 to 70; and in this subsection “penalty” includes an amount assessed by virtue of section 61(3) or (4)(a).
- [F749(6A) Without prejudice to section 70, nothing in section [F75083(1)](zb) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 11 of Schedule 11A.]
- [F751(6B) Nothing in section [F75283(1)](zc) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under regulations made under section 135 of the Finance Act 2002.]
- (7) Where there is an appeal against a decision to make such a direction as is mentioned in section [F75383(1)](u), the tribunal shall not allow the appeal unless it considers that [F754HMRC] could not reasonably have been satisfied as to the matters in subparagraph (2)(a) to (d) of paragraph 2 of Schedule 1 or, as the case may be, [F755]that there were grounds for making the direction.]
- [F756(7A) Where there is an appeal against a decision to make such a direction as is mentioned in section [F75783(1)](wa), the cases in which the tribunal shall allow the appeal shall include (in addition to the case where the conditions for the making of the direction were not fulfilled) the case where the tribunal are satisfied, in relation to the relevant event by reference to which the direction was given, that—
- (a) the change in the treatment of the body corporate, or
- (b) the transaction in question,
- had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) of Schedule 9A.]
- [F758(7ZA) Where there is an appeal against such a refusal as is mentioned in section [F75983(1)](wb)—
- (a) the tribunal shall not allow the appeal unless it considers that [F760HMRC] could not reasonably have been satisfied that there were grounds for the refusal, and
- (b) the refusal shall have effect pending the determination of the appeal.]

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- [<sup>F761</sup>(7B) Where there is an appeal against a decision to make such a direction as is mentioned in section [<sup>F762</sup>83(1)](zza)—
- (a) the tribunal shall not allow the appeal unless it considers that [<sup>F763</sup>HMRC] could not reasonably have been satisfied that there were grounds for making the direction;
  - (b) the direction shall have effect pending the determination of the appeal.]
- <sup>F764</sup>(8) .....
- (9) No appeal shall lie under this section with respect to the subject-matter of any decision which by virtue of section 16 is a decision to which section 14 [<sup>F765</sup>or 15A] of the <sup>M23</sup>Finance Act 1994 (decisions subject to review) applies unless the decision—
- (a) relates exclusively to one or both of the following matters, namely whether or not section 30(3) applies in relation to the importation of the goods in question and (if it does not) the rate of tax charged on those goods; and
  - (b) is not one in respect of which notice has been given to [<sup>F766</sup>HMRC] under section 14 of that Act requiring them to review it [<sup>F767</sup>and]
  - [<sup>F768</sup>(c) a review is not being undertaken following a request under section 14A of that Act; and
  - (d) a review is not being undertaken under section 15 of that Act as a consequence of section 15B(3), 15C(3) or 15E(3) of that Act].
- (10) Where an appeal is against [<sup>F769</sup>an HMRC decision] which depended upon a prior decision taken <sup>F770</sup>... in relation to the appellant, the fact that the prior decision is not within section 83 shall not prevent the tribunal from allowing the appeal on the ground that it would have allowed an appeal against the prior decision.
- (11) Subsection (4) above shall not apply in relation to any appeal relating to the input tax that may be credited to any person at the end of a prescribed accounting period beginning before 27th July 1993.

#### Textual Amendments

- F729** S. 84(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(2)**
- F730** S. 84(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(3)**
- F731** Word in s. 84(3) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 124(4)(a)**
- F732** S. 84(3A) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(4)**
- F733** S. 84(3B)(3C) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(5)**
- F734** Word in s. 84(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(6)**
- F735** Word in s. 84(4)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 73(a)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)
- F736** S. 84(4ZA) inserted (retrospective to 24.4.2002) by [Finance Act 2002 \(c. 23\)](#), **s. 23(3)(4)**
- F737** Word in s. 84(4ZA)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(8)**

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- F738** Word in s. 84(4ZA) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F739** S. 84(4A)-(4D) inserted (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 4**
- F740** Word in s. 84(4A)(a) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F741** Word in s. 84(4C) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F742** Word in s. 84(4D) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F743** S. 84(4E)(4F) inserted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), s. 17(7)(8)
- F744** Words in s. 84(4E) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(9)**
- F745** Word in s. 84(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F746** Words in s. 84(5) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 124(4)(b)
- F747** Words in s. 84(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 73(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F748** Word in s. 84(6) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F749** S. 84(6A) inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by Finance Act 2004 (c. 12), s. 19(2), **Sch. 2 para. 5(3)**; S.I. 2004/1934, art. 2
- F750** Word in s. 84(6A) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F751** S. 84(6B) inserted (19.7.2007) by Finance Act 2007 (c. 11), s. 93(9)
- F752** Word in s. 84(6B) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F753** Word in s. 84(7) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F754** Word in s. 84(7) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F755** Words in s. 84(7) substituted (19.3.1997 with effect as mentioned in s. 31(4) of the amending Act) by 1997 c. 16, s. 31(3)(4)
- F756** S. 84(7A) inserted (29.4.1996) by 1996 c. 8, s. 31(4)
- F757** Word in s. 84(7A) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F758** S. 84(7ZA) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Value Added Tax (Buildings and Land) Order 2008 (S.I. 2008/1146), arts. 1(1), 3(3) (with Sch. 2)
- F759** Word in s. 84(7ZA) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F760** Word in s. 84(7ZA) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F761** S. 84(7B) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 21(5)
- F762** Word in s. 84(7B) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F763** Word in s. 84(7B) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F764** S. 84(8) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(10)** (with Sch. 3 para. 9(2)(a))
- F765** Words in s. 84(9) added (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(11)(a)**

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- F766** Word in s. 84(9)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(11)(b)**
- F767** Word in s. 84(9)(b) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(11)(c)**
- F768** S. 84(9)(c)(d) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(11)(d)**
- F769** Words in s. 84(10) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(12)(a)**
- F770** Words in s. 84(10) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(12)(b)**

#### Marginal Citations

**M23** 1994 c. 9.

## 85 Settling appeals by agreement.

- (1) Subject to the provisions of this section, where a person gives notice of appeal under section 83 and, before the appeal is determined by a tribunal, [<sup>F771</sup>HMRC] and the appellant come to an agreement (whether in writing or otherwise) under the terms of which the decision under appeal is to be treated—
- as upheld without variation, or
  - as varied in a particular manner, or
  - as discharged or cancelled,
- the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, a tribunal had determined the appeal in accordance with the terms of the agreement <sup>F772</sup>....
- (2) Subsection (1) above shall not apply where, within 30 days from the date when the agreement was come to, the appellant gives notice in writing to [<sup>F771</sup>HMRC] that he desires to repudiate or resile for the agreement.
- (3) Where an agreement is not in writing—
- the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by [<sup>F771</sup>HMRC] to the appellant or by the appellant to [<sup>F771</sup>HMRC], and
  - references in those provisions to the time when the agreement was come to shall be construed as references to the time of the giving of that notice of confirmation.
- (4) Where—
- a person who has given a notice of appeal notifies [<sup>F771</sup>HMRC], whether orally or in writing, that he desires not to proceed with the appeal; and
  - 30 days have elapsed since the giving of the notification without [<sup>F771</sup>HMRC] giving to the appellant notice in writing indicating that they are unwilling that the appeal should be treated as withdrawn,

the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and [<sup>F771</sup>HMRC] had come to an agreement, orally or in writing, as the case may be, that the decision under appeal should be upheld without variation.

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- (5) References in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

#### Textual Amendments

- F771** Word in s. 85 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 222(3)**
- F772** Words in s. 85(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 222(2)**

#### Modifications etc. (not altering text)

- C71** S. 85 amended (28.7.2000) by [2000 c. 17, s. 30](#), **Sch. 6 para. 123(7)**  
S. 85 amended (11.5.2001) by [2001 c. 9, s. 42\(7\)](#)
- C72** S. 85 extended (29.4.1996) by [1996 c. 8, s. 57\(a\)](#)
- C73** S. 85 modified (27.11.2003) by [Finance Act 2003 \(c. 14\)](#), ss. 24(7), **37(1)**; [S.I. 2003/2985](#), art. 2
- C74** S. 85 modified (23.12.2003) by [Export \(Penalty\) Regulations 2003 \(S.I. 2003/3102\)](#), regs. 1, **13(1)**
- C75** S. 85 modified by [1994 c. 9, s. 60\(10\)](#) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 207(12)**)
- C76** S. 85 modified by [1994 c. 9, s. 16\(3B\)](#) (as inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 203(6)**)
- C77** S. 85 applied (with modifications) by [2008 c. 28, Sch. 7 para. 26\(6\)](#) (as substituted (1.4.2009) by [The Revenue and Customs Appeals Order 2009 \(S.I. 2009/777\)](#), art. 1, **Sch. para. 2(4)**)
- C78** S. 85 modified by [S.I. 2007/1509](#), reg. 5 (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 165**)
- C79** S. 85 modified by [S.I. 2003/3102](#), reg. 13 (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 126**)
- C80** S. 85 modified by [2003 c. 14, s. 37](#) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 366**)
- C81** S. 85 modified by [1996 c. 8, s. 56\(8\)](#) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(8)**)
- C82** S. 85 modified by [2000 c. 17, Sch. 6 para. 123\(7\)](#) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 291(9)**)
- C83** S. 85 modified by [2001 c. 9, s. 42\(7\)](#) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 306(9)**)
- C84** S. 85 modified (20.2.2019) by [The Customs Safety and Security \(Penalty\) Regulations 2019 \(S.I. 2019/121\)](#), regs. 1, **15**

### [<sup>F773</sup>85A Payment of tax on determination of appeal

- (1) This section applies where the tribunal has determined an appeal under section 83.
- (2) Where on the appeal the tribunal has determined that—
- the whole or part of any disputed amount paid or deposited is not due, or
  - the whole or part of any VAT credit due to the appellant has not been paid,
- so much of that amount, or of that credit, as the tribunal determines not to be due or not to have been paid shall be paid or repaid with interest at the rate applicable under section 197 of the Finance Act 1996.

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- (3) Where on the appeal the tribunal has determined that—
- (a) the whole or part of any disputed amount not paid or deposited is due, or
  - (b) the whole or part of any VAT credit paid was not payable,
- so much of that amount, or of that credit, as the tribunal determines to be due or not payable shall be paid or repaid to HMRC with interest at the rate applicable under section 197 of the Finance Act 1996.
- (4) Interest under subsection (3) shall be paid without any deduction of income tax.
- (5) Nothing in this section requires HMRC to pay interest—
- (a) on any amount which falls to be increased by a supplement under section 79 (repayment supplement in respect of certain delayed payments or refunds); or
  - (b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

#### Textual Amendments

**F773** Ss. 85A, 85B inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 223](#)

### 85B Payment of tax where there is a further appeal

- (1) Where a party makes a further appeal, notwithstanding that the further appeal is pending, value added tax or VAT credits, or a credit of overstated or overpaid value added tax shall be payable or repayable in accordance with the determination of the tribunal or court against which the further appeal is made.
- (2) But if the amount payable or repayable is altered by the order or judgment of the tribunal or court on the further appeal—
- (a) if too much value added tax has been paid or the whole or part of any VAT credit due to the appellant has not been paid the amount overpaid or not paid shall be refunded with such interest, if any, as the tribunal or court may allow; and
  - (b) if too little value added tax has been charged or the whole or part of any VAT credit paid was not payable so much of the amount as the tribunal or court determines to be due or not payable shall be due or repayable, as appropriate, at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment of that tribunal or court.
- (3) If, on the application of HMRC, the relevant tribunal or court considers it necessary for the protection of the revenue, subsection (1) shall not apply and the relevant tribunal or court may—
- (a) give permission to withhold any payment or repayment; or
  - (b) require the provision of adequate security before payment or repayment is made.
- (4) If, on the application of the original appellant, HMRC are satisfied that financial extremity might be reasonably expected to result if payment or repayment is required or withheld as appropriate, HMRC may do one or more of the things listed in subsection (6).



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- (5) If on the application of the original appellant, the relevant tribunal or court decides that—
- (a) the original appellant has applied to HMRC under subsection (4),
  - (b) HMRC have decided that application,
  - (c) financial extremity might be reasonably expected to result from that decision by HMRC,
- the relevant tribunal or court may replace, vary or supplement the decision by HMRC by doing one or more of the things listed in subsection (6).
- (6) These are the things which HMRC or the relevant tribunal or court may do under subsection (4) or (5)—
- (a) decide how much, if any, of the amount under appeal should be paid or repaid as appropriate,
  - (b) require the provision of adequate security from the original appellant,
  - (c) stay the requirement to pay or repay under subsection (1).
- (7) Subsections (3) to (6) cease to have effect when the further appeal has been determined.
- (8) In this section—
- “adequate security” means security that is of such amount and given in such manner—
- (a) as the tribunal or court may determine (in a case falling within subsection (3) or (5)), or
  - (b) as HMRC consider adequate to protect the revenue (in a case falling within subsection (4));
- “further appeal” means an appeal against—
- (a) the tribunal’s determination of an appeal under section 83, or
  - (b) a decision of the Upper Tribunal or a court that arises (directly or indirectly) from that determination;
- “original appellant” means the person who made the appeal to the tribunal under section 83;
- “relevant tribunal or court” means the tribunal or court from which permission or leave to appeal is sought.]

#### Textual Amendments

**F773** Ss. 85A, 85B inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 223**

#### Modifications etc. (not altering text)

**C85** S. 85B excluded (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 3 para. 10**

**C86** S. 85B modified by 1994 c. 9, s. 16(3B) (as inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 203(6)**)

**C87** S. 85B modified by 1994 c. 9, s. 60(10) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 207(12)**)

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- C88** S. 85B modified by 1996 c. 8, s. 56(8) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 237(8)**)
- C89** S. 85B modified by 2000 c. 17, Sch. 6 para. 123(7) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 291(9)**)
- C90** S. 85B modified by 2001 c. 9, s. 42(7) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 306(9)**)

<sup>F774</sup>**86 Appeals to Court of Appeal.**

.....

**Textual Amendments**

- F774** S. 86 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 224**

<sup>F775</sup>**87 Enforcement of registered or recorded tribunal decisions etc.**

.....

**Textual Amendments**

- F775** S. 87 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 224**

## PART VI

### SUPPLEMENTARY PROVISIONS

#### *Change in rate of VAT etc. and disclosure of information*

**88 Supplies spanning change of rate etc.**

- (1) This section applies where there is a change in the rate of VAT in force under section 2 [<sup>F776</sup>or 29A] or in the descriptions of exempt [<sup>F777</sup>, zero-rated or reduced-rate] supplies  
<sup>F778</sup>.....
- (2) Where—
- a supply affected by the change would, apart from section 6(4), (5), (6) or (10), be treated under section 6(2) or (3) as made wholly or partly at a time when it would not have been affected by the change; or
  - a supply not so affected would apart from section 6(4), (5), (6) or (10) be treated under section 6(2) or (3) as made wholly or partly at a time when it would have been so affected,

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the rate at which VAT is chargeable on the supply, or any question whether it is zero-rated or exempt [<sup>F779</sup> or a reduced-rate supply], shall if the person making it so elects be determined without regard to section 6(4), (5), (6) or (10).

- (3) Any power to make regulations under this Act with respect to the time when a supply is to be treated as taking place shall include power to provide for this section to apply as if the references in subsection (2) above to section 6(4), (5), (6) or (10) included references to specified provisions of the regulations.

<sup>F780</sup>(4) .....

- (5) Regulations under [<sup>F781</sup> paragraph 2A] of Schedule 11 may make provision for the replacement or correction of any VAT invoice which—

- (a) relates to a supply in respect of which an election is made under this section, but  
(b) was issued before the election was made.

- (6) No election may be made under this section in respect of a supply to which [<sup>F782</sup> paragraph 7 of Schedule 4 or paragraph 2B(4) of Schedule 11] applies.

<sup>F783</sup>(7) .....

- [<sup>F784</sup>(8) References in this section to a supply being a reduced-rate supply are references to a supply being one on which VAT is charged at the rate in force under section 29A.]

#### Textual Amendments

- F776** Words in s. 88(1) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(2)(a)**  
**F777** Words in s. 88(1) substituted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(2)(b)**  
**F778** Words in s. 88(1) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 74(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)  
**F779** Words in s. 88(2) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(3)**  
**F780** S. 88(4) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 74(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)  
**F781** Words in s. 88(5) substituted (1.12.2003) by **Finance Act 2002 (c. 23)**, s. 24(4)(c)(i)(5); S.I. 2003/3043, art. 2  
**F782** Words in s. 88(6) substituted (1.12.2003) by **Finance Act 2002 (c. 23)**, s. 24(4)(c)(ii)(5); S.I. 2003/3043, art. 2  
**F783** S. 88(7) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 74(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)  
**F784** S. 88(8) substituted (31.12.2020) by **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 74(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### Modifications etc. (not altering text)

- C91** S. 88(2) modified (20.10.1995) by S.I. 1995/2518, **reg. 95**

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## 89 Adjustments of contracts on changes in VAT.

- (1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the VAT charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.
- (2) Subsection (1) above shall apply in relation to a tenancy or lease as it applies in relation to a contract except that a term of a tenancy or lease shall not be taken to provide that the rule contained in that subsection is not to apply in the case of the tenancy or lease if the term does not specifically to VAT or this section.
- (3) References in this section to a change in the VAT charged on a supply include references to a change to or from no VAT being charged on the supply (including a change attributable to the making of an <sup>F785</sup>option to tax any land under Part 1 of Schedule 10J).

### Textual Amendments

**F785** Words in s. 89(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), art. 1(1), **Sch. 1 para. 2** (with Sch. 2)

## 90 Failure of resolution under Provisional Collection of Taxes Act 1968.

- (1) Where—
  - (a) by virtue of a resolution having effect under the <sup>M24</sup>Provisional Collection of Taxes Act 1968 VAT has been paid at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 19(2) <sup>F786</sup>..., and
  - (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that VAT is repayable in consequence of the restoration in relation to that supply <sup>F787</sup>... of a lower rate,

the amount repayable shall be the difference between the VAT paid by reference to that value at the rate specified in the resolution and the VAT that would have been payable by reference to that value at the lower rate.

- (2) Where—
  - (a) by virtue of such a resolution VAT is chargeable at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 19(2) <sup>F788</sup>..., but
  - (b) before the VAT is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to that supply <sup>F789</sup>... of a lower rate,

the VAT chargeable at the lower rate shall be charged by reference to the same value as that by reference to which VAT would have been chargeable at the rate specified in the resolution.

- (3) The VAT that may be credited as input tax under section 25 or refunded under section 33, <sup>F790</sup>33A, <sup>F791</sup>33B, <sup>F792</sup>33C <sup>F793</sup>or 35] does not include VAT that has been repaid by virtue of any of the provisions mentioned in subsection (1)(b) above or that would be repayable by virtue of any of those provisions if it had been paid.

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### Textual Amendments

- F786** Words in s. 90(1)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 75(2)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F787** Words in s. 90(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 75(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F788** Words in s. 90(2)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 75(3)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F789** Words in s. 90(2)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 75(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F790** Word in s. 90(3) inserted (11.5.2001 for specified purposes, 1.9.2001 in so far as not already in force) by 2001 c. 9, s. 98(8)(10)(11)
- F791** Word in s. 90(3) inserted (with effect in accordance with s. 76(5) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **s. 76(3)**
- F792** Word in s. 90(3) inserted (with effect in accordance with s. 66(5) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), **s. 66(3)**
- F793** Words in s. 90(3) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 75(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### Marginal Citations

- M24** 1968 c. 2.

## 91 Disclosure of information for statistical purposes.

- (1) For the purpose of the compilation or maintenance by the Department of Trade and Industry or the [<sup>F794</sup>Statistics Board] of a central register of businesses, or for the purpose of any statistical survey conducted or to be conducted by that Department [<sup>F795</sup>or Board], the Commissioners or an authorised officer of the Commissioners may disclose to an authorised officer of that Department [<sup>F795</sup>or Board] particulars of the following descriptions obtained or recorded by them in pursuance of this Act—
- numbers allocated by the Commissioners on the registration of persons under this Act and reference numbers for members of a group;
  - names, trading styles and addresses of persons so registered or of members of groups and status and trade classifications of businesses; and
  - actual or estimated value of supplies.
- (2) Subject to subsection (3) below, no information obtained by virtue of this section by an officer of the Department of Trade and Industry or the [<sup>F796</sup>Statistics Board] may be disclosed except to an officer of a Government department (including a Northern Ireland department) [<sup>F797</sup>or to a member of the staff of the Scottish Administration] for the purpose for which the information was obtained, or for a like purpose.

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- (3) Subsection (2) above does not prevent the disclosure—
- (a) of any information in the form of a summary so framed as not to enable particulars to be identified as particulars relating to a particular person or to the business carried on by a particular person; or
  - (b) with the consent of any person, of any information enabling particulars to be identified as particulars relating only to him or to a business carried on by him.
- (4) If any person who has obtained any information by virtue of this section discloses it in contravention of this section he shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; and
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine of any amount or to both.
- (5) In this section, references to the Department of Trade and Industry or the [<sup>F798</sup>Statistics Board] include references to any Northern Ireland department [<sup>F799</sup> or to any part of the Scottish Administration] carrying out similar functions.

#### Textual Amendments

- F794** Words in s. 91(1) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(2\)\(a\)](#); S.I. 2008/839, art. 2
- F795** Words in s. 91(1) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(2\)\(b\)](#); S.I. 2008/839, art. 2
- F796** Words in s. 91(2) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(3\)](#); S.I. 2008/839, art. 2
- F797** Words in s. 91(2) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. I para. 114\(2\)\(a\)](#); S.I. 1998/3178, [art. 3](#)
- F798** Words in s. 91(5) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 2 para. 6\(3\)](#); S.I. 2008/839, art. 2
- F799** Words in s. 91(5) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, [Sch. 2 Pt. I para. 114\(2\)\(b\)](#); S.I. 1998/3178, [art. 3](#)

#### Interpretative provisions

#### <sup>F800</sup>92 Taxation under the laws of other member States etc.

.....

#### Textual Amendments

- F800** S. 92 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 76](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

#### <sup>F801</sup>93 Territories included in references to other member States etc.

.....

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#### Textual Amendments

**F801** S. 93 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 77](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### 94 Meaning of “business” etc.

- (1) In this Act “business” includes any trade, profession or vocation.
- (2) Without prejudice to the generality of anything else in this Act, the following are deemed to be the carrying on of a business—
  - (a) the provision by a club, association or organisation (for a subscription or other consideration) of the facilities or advantages available to its members; and
  - (b) the admission, for a consideration, of persons to any premises.

<sup>F802</sup>(3) .....

- (4) Where a person, in the course or furtherance of a trade, profession or vocation, accepts any office, services supplied by him as the holder of that office are treated as supplied in the course or furtherance of the trade, profession or vocation.
- (5) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.
- (6) The disposition of a business [<sup>F803</sup>or part of a business,] as a going concern, or of [<sup>F804</sup>the assets or liabilities of the business or part of the business] (whether or not in connection with its reorganisation or winding up), is a supply made in the course or furtherance of the business.

#### Textual Amendments

**F802** S. 94(3) repealed (1.12.1999) by [1999 c. 16, ss. 20, 139, Sch. 20 Pt. II\(2\)](#), Note; S.I. 1999/2769, [art. 2](#)  
**F803** Words in s. 94(6) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(7\)\(a\)](#)  
**F804** Words in s. 94(6) substituted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(7\)\(b\)](#)

### <sup>F805</sup>95 Meaning of “new means of transport”.

.....

#### Textual Amendments

**F805** S. 95 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 78](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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## [<sup>F806</sup>95A Meaning of “online marketplace” and “operator” etc

(1) In this Act—

“online marketplace” means a website, or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace);

“operator”, in relation to an online marketplace, means the person who controls access to, and the contents of, the online marketplace provided that the person is involved in—

- (a) determining any terms or conditions applicable to the sale of goods,
- (b) processing, or facilitating the processing, of payment for the goods, and
- (c) the ordering or delivery, or facilitating the ordering or delivery, of the goods.

(2) For the purposes of subsection (1), an online marketplace facilitates the sale of goods if it allows a person to—

- (a) offer goods for sale, and
- (b) enter into a contract for the sale of those goods.

(3) The Treasury may by regulations amend this section so as to alter the meaning of—  
“online marketplace”, and  
“operator”.]

### Textual Amendments

**F806** S. 95A inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 14](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)

## 96 Other interpretative provisions.

(1) In this Act—

“the 1983 Act” means the <sup>M25</sup>Value Added Tax Act 1983;

<sup>F807</sup>  
...

“assignment”, in relation to Scotland, means assignment;

“authorised person” means any person acting under the authority of the Commissioners;

“the Commissioners” means the Commissioners of Customs and Excise;

[<sup>F808</sup> “copy”, in relation to a document, means anything onto anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly.]

[<sup>F809</sup> “document” means anything in which information of any description is recorded; and]

“fee simple”—

- (a) in relation to Scotland, means the <sup>F810</sup>... interest of the owner;
- (b) in relation to Northern Ireland, includes the estate of a person who holds land under a fee farm grant;

[<sup>F811</sup>“HMRC” means Her Majesty’s Revenue and Customs;]



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[<sup>F812</sup>“import duty” means import duty charged in accordance with Part 1 of TCTA 2018;]

“invoice” includes any document similar to an invoice;

“input tax” has the meaning given by section 24;

<sup>F813</sup>  
...

“local authority” has the meaning given by subsection (4) below;

“major interest”, in relation to land, means the fee simple or a tenancy for a term certain exceeding 21 years, and in relation to Scotland means [<sup>F814</sup>the] interest of the owner, or the lessee’s interest under a lease for a period [<sup>F815</sup>of not less than 20 years];

“the Management Act” means the <sup>M26</sup>Customs and Excise Management Act 1979;

“money” includes currencies other than sterling;

“output tax” has the meaning given by section 24;

<sup>F813</sup>  
...

<sup>F816</sup>  
...

[<sup>F817</sup>“postal operator” means a person who provides—

(a) the service of conveying postal packets from one place to another by post, or

(b) any of the incidental services of receiving, collecting, sorting and delivering postal packets;]

[<sup>F817</sup>“postal packet” means a letter, parcel, packet or other article transmissible by post;]

“prescribed” means prescribed by regulations:

“prescribed accounting period” has the meaning given by section 25(1);

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“regulations” means regulations made by the Commissioners under this Act;

[<sup>F818</sup>“relevant business person” has the meaning given by section 7A(4);]

“ship” includes hovercraft;

“subordinate legislation” has the same meaning as in the <sup>M27</sup>Interpretation Act 1978;

“tax” means VAT;

<sup>F819</sup>  
...

“taxable person” means a person who is a taxable person under section 3;

“taxable supply” has the meaning given by section 4(2);

“the Taxes Act” means the <sup>M28</sup>Income and Corporation Taxes Act 1988;

[<sup>F812</sup>“TCTA 2018” means the Taxation (Cross-border Trade) Act 2018;]

“tribunal” has the meaning given by section 82;

[<sup>F820</sup>“trustee in sequestration” means a trustee (or interim trustee) in a sequestration under the Bankruptcy (Scotland) Act 2016]

[<sup>F821</sup>“VAT” means value added tax charged in accordance with this Act;]

“VAT credit” has the meaning given by section 25(3);

“VAT invoice” has the meaning given by section 6(15);

“VAT representative” has the meaning given by section 48;

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and any reference to a particular section, Part or Schedule is a reference to that section or Part of, or Schedule to, this Act.

(2) Any reference in this Act to being registered shall be construed in accordance with section 3(3).

<sup>F822</sup>(3) .....

(4) In this Act “local authority” means the council of a county, [<sup>F823</sup>county borough,] district, London borough, parish or group of parishes (or, in Wales, community or group of communities), the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, a [<sup>F824</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994, any two or more such councils and any joint committee or joint board within the meaning of section 235(1) of the Local Government (Scotland) Act 1973].

(5) Any reference in this Act to the amount of any duty of excise on any goods shall be taken to be a reference to the amount of duty charged on those goods with any addition or deduction falling to be made under section 1 of the <sup>M29</sup>Excise Duties (Surcharges or Rebates) Act 1979.

<sup>F825</sup>(6) .....

<sup>F825</sup>(7) .....

(8) The question whether, in relation to any supply of services, the supplier or the recipient of the supply belongs in one country or another shall be determined <sup>F826</sup>... in accordance with section 9.

(9) Schedules [<sup>F827</sup>7A,] 8 and 9 shall be interpreted in accordance with the notes contained in those Schedules; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.

(10) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.

[<sup>F828</sup>(10A) Where—

- (a) the grant of any interest, right, licence or facilities gives rise for the purposes of this Act to supplies made at different times after the making of the grant, and
- (b) a question whether any of those supplies is zero-rated or exempt falls to be determined according to whether or not the grant is a grant of a description specified in Schedule 8 or 9 or [<sup>F829</sup>any of paragraphs 5 to 11 of Schedule 10],

that question shall be determined according to whether the description is applicable as at the time of supply, rather than by reference to the time of the grant.]

[<sup>F830</sup>(10B) Notwithstanding subsection (10A) above—

- (a) item 1 of Group 1 of Schedule 9 does not make exempt any supply that arises for the purposes of this Act from the prior grant of a fee simple falling within paragraph (a) of that item; and
- (b) that paragraph does not prevent the exemption of a supply that arises for the purposes of this Act from the prior grant of a fee simple not falling within that paragraph.]

(11) References in this Act to the United Kingdom include the territorial sea of the United Kingdom.

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## Extent Information

**E1** S. 96(6) does not extend to Scotland see s. 96(6).

## Textual Amendments

- F807** Words in s. 96(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 79\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F808** S. 96(1): definition of “copy” inserted (31.1.1997) by 1995 c. 38, s. 15(1), [Sch. 1 para. 20](#) (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, [art. 2](#)
- F809** S. 96(1): definition of “document” inserted (31.1.1997) by 1995 c. 38, s. 15(1), [Sch. 1 para. 20](#) (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, [art. 2](#)
- F810** Words in s. 96(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 57\(a\)](#), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F811** Definition in s. 96(1) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 225](#)
- F812** Words in s. 96(1) inserted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 79\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F813** Words in s. 96(1) omitted (30.11.2016) by virtue of [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 12\(7\)\(a\)](#)
- F814** Words in s. 96(1) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 12 para. 57\(b\)](#) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F815** S. 96(1): words in para. (b) of the definition of “major interest” substituted (31.7.1998) by 1998 c. 36, s. 24
- F816** Words in s. 96(1) omitted (with effect in accordance with s. 22(4) of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 22(3)(a)
- F817** Words in s. 96(1) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 15](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9
- F818** Definition in s. 96(1) inserted (with effect in accordance with [Sch. 36 para. 14\(3\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 8\(2\)](#) (with [Sch. 36 para. 19](#))
- F819** Words in s. 96(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 79\(2\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F820** Words in s. 96(1) inserted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 12\(7\)\(b\)](#)
- F821** Words in s. 96(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 79\(2\)\(d\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F822** S. 96(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 79\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F823** S. 96(4): words in definition of “local authority” inserted (16.6.1995) by S.I. 1995/1510, [art. 2](#)
- F824** S. 96(4): words in definition of “local authority” substituted (1.4.1996) by S.I. 1996/739, art. 7(1), [Sch. 1 Pt. 1 para. 8](#)

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- F825** S. 96(6)(7) repealed (31.1.1997) by 1995 c. 38, s. 15(2), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**
- F826** Words in s. 96(8) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of **Finance Act 2009 (c. 10), Sch. 36 para. 8(3)** (with Sch. 36 para. 19)
- F827** Word in s. 96(9) inserted (11.5.2001) by 2001 c. 9, s. 99, Sch. 31 para. 5
- F828** S. 96(10A) inserted (retrospectively) by 1997 c. 16, **s. 35(1)(4)**
- F829** Words in s. 96(10A)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by **The Value Added Tax (Buildings and Land) Order 2008 (S.I. 2008/1146), art. 1(1), Sch. 1 para. 3** (with Sch. 2)
- F830** S. 96(10B) inserted (with application in accordance with s. 20(2) of the amending Act) by **Finance Act 2003 (c. 14), s. 20(1)**

#### Marginal Citations

- M25** 1983 c. 55.  
**M26** 1979 c. 2.  
**M27** 1978 c. 30.  
**M28** 1988 c. 1.  
**M29** 1979 c. 8.

### Supplementary provisions

#### 97 Orders, rules and regulations.

- (1) Any order made by the Treasury <sup>F831</sup>... under this Act and any regulations or rules under this Act shall be made by statutory instrument.
- <sup>F832</sup>(2) .....
- (3) An order to which this subsection applies shall be laid before the House of Commons; and unless it is approved by that House before the expiration of a period of 28 days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.
- In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.
- (4) Subject to section 53(4), subsection (3) above applies to—
- <sup>F833</sup>(aa) .....
- (a) an order under section 5(4) [<sup>F834</sup> 7A(6)] [<sup>F835</sup> or 28] [<sup>F835</sup> 28 or 40A];
- [<sup>F836</sup>(ab) an order under paragraph 5(7) of Schedule 4 substituting a lesser sum for the sum for the time being specified in paragraph 5(2)(a) of that Schedule;]
- (b) .....
- (c) an order under this Act making provision—
- (i) for increasing the rate of VAT in force [<sup>F837</sup> under section 2] at the time of the making of the order;
- (ii) for excluding any VAT from credit under section 25;
- [<sup>F838</sup>(ia) for varying Schedule 7A so as to cause VAT to be charged on a supply at the rate in force under section 2 instead of that in force under section 29A;]

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- (iii) for varying Schedule 8 or 9 so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it;
- [<sup>F839</sup>(ca) an order under section 43AA(1) if as a result of the order any [<sup>F840</sup>persons] would cease to be eligible to be treated as members of a group;]
- (d) an order under section 51, except one making only such amendments as are necessary or expedient in consequence of provisions of an order under this Act which—
- (i) vary Schedule [<sup>F841</sup>7A,] 8 or 9; but
- (ii) are not within paragraph (c) above;
- (e) an order under section 54(4) or (8).
- [<sup>F842</sup>(ea) an order under section 55A(13);]
- [<sup>F843</sup>(eb) an order under section 77A(9) or (9A);]
- [<sup>F844</sup>(f) an order under paragraph [<sup>F845</sup>B1, C1(4),] 1A(7)[<sup>F846</sup>, 2A(4)][<sup>F847</sup>or 8A(7)] of Schedule 6;]
- [<sup>F848</sup>(fa) an order under paragraph 3(4) of Schedule 10A;]
- [<sup>F849</sup>(g) an order under paragraph 3 or 4 of Schedule 11A.]
- [<sup>F850</sup>(4A) Where an order under section 2(2) is in force, the reference in subsection (4)(c)(i) of this section to the rate of VAT in force under section 2 at the time of the making of an order is a reference to the rate which would be in force at that time if no such order had been made.]
- (5) A statutory instrument made under any provision of this Act except—
- (a) an order made under section 79, or
- (b) an instrument as respects which any other Parliamentary procedure is expressly provided, or
- (c) an instrument containing an order appointing a day for the purposes of any provision of this Act, being a day as from which the provision will have effect, with or without amendments, or will cease to have effect,
- shall be subject to annulment in pursuance of a resolution of the House of Commons.

### Textual Amendments

- F831** Words in s. 97(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 226\(2\)](#)
- F832** S. 97(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 226\(3\)](#)
- F833** S. 97(4)(aa) repealed (1.11.2001) by [2001 c. 9, s. 110](#), [Sch. 33 Pt. III\(1\)](#) note 1
- F834** Word in s. 97(4)(a) inserted (with effect in accordance with [Sch. 36 para. 14\(3\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 9](#) (with [Sch. 36 para. 19](#))
- F835** Words in s. 97(4)(a) substituted (17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 7\(3\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#))
- F836** S. 97(4)(ab) inserted (29.4.1996) by [1996 c. 8, s. 33\(3\)](#)
- F837** Words in s. 97(4)(c)(i) inserted (11.5.2001 with effect as mentioned in [s. 99\(9\)\(a\)](#) of the amending Act) by [2001 c. 9, s. 99](#), [Sch. 31 para. 6\(2\)](#)
- F838** S. 97(4)(c)(ia) inserted (11.5.2001) by [2001 c. 9, s. 99](#), [Sch. 31 para. 6\(3\)](#)
- F839** S. 97(4)(ca) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. 20(5)
- F840** Word in s. 97(4)(ca) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), [Sch. 18 para. 12](#); [S.I. 2019/1348, reg. 2](#)
- F841** Words in s. 97(4)(d)(i) inserted (11.5.2001) by [2001 c. 9, s. 99](#), [Sch. 31 para. 6\(4\)](#)
- F842** S. 97(4)(ea) inserted (1.6.2007) by [Finance Act 2006 \(c. 25\)](#), s. 19(6)(8); [S.I. 2007/1419, art. 2](#)

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- F843** S. 97(4)(eb) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 98\(2\)](#)
- F844** S. 97(4)(f) inserted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 22\(4\)](#)
- F845** Words in s. 97(4)(f) inserted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 38 para. 5\(a\)](#)
- F846** Words in s. 97(4)(f) inserted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\), Sch. 38 para. 5\(b\)](#)
- F847** Words in s. 97(4)(f) inserted (with effect in accordance with s. 200(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 200\(4\)](#)
- F848** S. 97(4)(fa) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 22\(2\)](#)
- F849** S. 97(4)(g) inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004 \(c. 12\), s. 19\(2\), Sch. 2 para. 6; S.I. 2004/1934, art. 2](#)
- F850** S. 97(4A) inserted (with effect in accordance with Sch. 3 para. 11 of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 3 para. 25\(3\)](#)

**Modifications etc. (not altering text)**

- C92** S. 97 extended (27.7.1999) by [1999 c. 16, s. 13\(6\)](#)

**[<sup>F851</sup>97A Place of supply orders: transitional provision.**

- (1) This section shall have effect for the purpose of giving effect to any order made [<sup>F852</sup>under section 7A(6)], if—
- (a) the order provides for services of a description specified in the order to be treated as supplied in the United Kingdom;
  - (b) the services would not have fallen to be so treated apart from the order;
  - (c) the services are not services that would have fallen to be so treated under any provision re-enacted in the order; and
  - (d) the order is expressed to come into force in relation to services supplied on or after a date specified in the order (“the commencement date”).
- (2) Invoices and other documents provided to any person before the commencement date shall be disregarded in determining the time of the supply of any services which, if their time of supply were on or after the commencement date, would be treated by virtue of the order as supplied in the United Kingdom.
- (3) If there is a payment in respect of any services of the specified description that was received by the supplier before the commencement date, so much (if any) of that payment as relates to times on or after that date shall be treated as if it were a payment received on the commencement date.
- (4) If there is a payment in respect of services of the specified description that is or has been received by the supplier on or after the commencement date, so much (if any) of that payment as relates to times before that date shall be treated as if it were a payment received before that date.
- (5) Subject to subsection (6) below, a payment in respect of any services shall be taken for the purposes of this section to relate to the time of the performance of those services.
- (6) Where a payment is received in respect of any services the performance of which takes place over a period a part of which falls before the commencement date and a part of which does not—
- (a) an apportionment shall be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before that date;

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- (b) the payment shall, to that extent, be taken for the purposes of this section to relate to a time before that date; and
- (c) the remainder, if any, of the payment shall be taken for those purposes to relate to times on or after that date.]

#### Textual Amendments

**F851** S. 97A inserted (retrospective to 17.3.1998) by [1998 c. 36, s. 22\(1\)\(3\)](#)

**F852** Words in s. 97A(1) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 36 para. 10](#) (with [Sch. 36 para. 19](#))

#### Modifications etc. (not altering text)

**C93** S. 97A excluded (with application in accordance with s. 105(3) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 105\(1\)](#)

### 98 Service of notices.

Any notice, notification, requirement or demand to be served on, given to or made of any person for the purposes of this Act may be served, given or made by sending it by post in a letter addressed to that person or his VAT representative at the last or usual residence or place of business of that person or representative.

#### Modifications etc. (not altering text)

**C94** S. 98 applied (9.3.2021) by [Finance Act 2021 \(c. 26\), s. 99\(2\), Sch. 19 para. 11\(1\)](#)

### 99 Refund of VAT to Government of Northern Ireland.

The Commissioners shall refund to the Government of Northern Ireland the amount of the VAT charged on the supply of goods or services to that Government <sup>F853</sup>... or on the importation of any goods by that Government <sup>F854</sup>..., after deducting therefrom so much of that amount as may be agreed between them and the Department of Finance and Personnel for Northern Ireland as attributable to supplies <sup>F855</sup>... and importations for the purpose of a business carried on by the Government of Northern Ireland.

#### Textual Amendments

**F853** Words in s. 99 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 80\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F854** Words in s. 99 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 80\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F855** Word in s. 99 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 80\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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## **100 Savings and transitional provisions, consequential amendments and repeals.**

- (1) Schedule 13 (savings and transitional provisions) and Schedule 14 (consequential amendments) shall have effect.
- (2) The enactments and Orders specified in Schedule 15 are hereby repealed to the extent mentioned in the third column of that Schedule.
- (3) This section is without prejudice to the operation of sections 15 to 17 of the <sup>M30</sup>Interpretation Act 1978 (which relate to the effect of repeals).

### **Marginal Citations**

**M30** 1978 c. 30.

## **101 Commencement and extent.**

- (1) This Act shall come into force on 1st September 1994 and Part I shall have effect in relation to the charge to VAT on supplies, acquisitions and importations in prescribed accounting periods ending on or after that date.
- (2) Without prejudice to section 16 of the <sup>M31</sup>Interpretation Act 1978 (continuation of proceedings under repealed enactments) except in so far as it enables proceedings to be continued under repealed enactments, section 72 shall have effect on the commencement of this Act to the exclusion of section 39 of the 1983 Act.
- (3) This Act extends to Northern Ireland.
- (4) Paragraph 23 of Schedule 13 and paragraph 7 of Schedule 14 shall extend to the Isle of Man but no other provision of this Act shall extend there.

### **Marginal Citations**

**M31** 1978 c. 30.

## **102 Short title.**

This Act may be cited as the Value Added Tax Act 1994.



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## SCHEDULES

### <sup>F856</sup><sub>F857</sub>SCHEDULE A1

#### Textual Amendments

**F856** Sch. A1 repealed (with effect in relation to supplies made, and acquisitions and importations taking place on or after 1.11.2001) by 2001 c. 9, ss. 99(3), 110, **Sch. 33 Pt. III(1)** Note 2

**F857** Sch. A1 inserted (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by 1995 c. 4, s. 21(3)

### SCHEDULE 1

Section 3(2).

#### REGISTRATION IN RESPECT OF TAXABLE SUPPLIES [<sup>F906</sup>: UK ESTABLISHMENT]

#### Textual Amendments

**F906** Words in Sch. 1 heading inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 13**

#### *Liability to be registered*

- 1 (1) Subject to sub-paragraphs (3) to (7) below, a person who makes taxable supplies but is not registered under this Act becomes liable to be registered under this Schedule—
  - (a) at the end of any month, if [<sup>F907</sup>the person is UK-established and] the value of his taxable supplies in the period of one year then ending has exceeded [<sup>F908</sup>£85,000]; or
  - (b) at any time, if [<sup>F909</sup>the person is UK-established and] there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days then beginning will exceed [<sup>F910</sup>£85,000].
- (2) Where a business [<sup>F911</sup>, or part of a business,] carried on by a taxable person is transferred to another person as a going concern [<sup>F912</sup>, the transferee is UK-established at the time of the transfer and the transferee is not registered under this Act at that time], then, subject to sub-paragraphs (3) to (7) below, the transferee becomes liable to be registered under this Schedule at that time if—
  - (a) the value of his taxable supplies in the period of one year ending at the time of the transfer has exceeded [<sup>F913</sup>£85,000]; or

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- (b) there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days beginning at the time of the transfer will exceed [<sup>F914</sup>£85,000].
- [<sup>F915</sup>(2A) In determining the value of a person's supplies for the purposes of sub-paragraph (1) (a) or (2)(a), supplies are to be taken into account (subject to sub-paragraphs (3) to (7)) whether or not the person was UK-established when they were made.]
- (3) A person does not become liable to be registered by virtue of sub-paragraph (1) (a) or (2)(a) above if the Commissioners are satisfied that the value of his taxable supplies in the period of one year beginning at the time at which, apart from this sub-paragraph, he would become liable to be registered will not exceed [<sup>F916</sup>£83,000].
- (4) In determining the value of a person's supplies for the purposes of sub-paragraph (1) (a) or (2)(a) above, supplies made at a time when he was previously registered under this Act shall be disregarded if—
- (a) his registration was cancelled otherwise than under paragraph 13(3) below, [<sup>F917</sup>paragraph 11 of Schedule 1A]<sup>F918</sup>... [<sup>F919</sup>or paragraph 6(2) of Schedule 3A], and
  - (b) the Commissioners are satisfied that before his registration was cancelled he had given them all the information they needed in order to determine whether to cancel the registration.
- (5) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 13(3) below, [<sup>F920</sup>paragraph 11 of Schedule 1A]<sup>F921</sup>... [<sup>F919</sup>or paragraph 6(2) of Schedule 3A].
- (6) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2(5), 3 or 4 below.
- (7) In determining the value of a person's supplies for the purposes of sub-paragraph (1) or (2) above, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied <sup>F922</sup>... shall be disregarded.
- (8) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (7) above be disregarded for the purposes of sub-paragraph (1) or (2) above, it shall not be if it is supplied on a taxable supply which is not zero-rated.
- [<sup>F923</sup>(9) In determining the value of a person's supplies for the purposes of sub-paragraph (1) or (2) above, supplies to which section 18B(4) (last <sup>F924</sup>... supply of goods before removal from fiscal warehousing) applies and supplies treated as made by him under section 18C(3) (self-supply of services on removal of goods from warehousing) shall be disregarded.]
- [<sup>F925</sup>(10) A person is “UK-established” if the person has a business establishment, or some other fixed establishment, in the United Kingdom in relation to a business carried on by the person.]

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### Textual Amendments

- F907** Words in Sch. 1 para. 1(1)(a) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 11(2)(a)**
- F908** Word in Sch. 1 para. 1(1)(a) substituted (1.4.2017) by The Value Added Tax (Increase of Registration Limits) Order 2017 (S.I. 2017/290), arts. 1, **3(a)**
- F909** Words in Sch. 1 para. 1(1)(b) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 11(2)(b)**
- F910** Word in Sch. 1 para. 1(1)(b) substituted (1.4.2017) by The Value Added Tax (Increase of Registration Limits) Order 2017 (S.I. 2017/290), arts. 1, **3(a)**
- F911** Words in Sch. 1 para. 1(2) inserted (with effect in accordance with s. 100(10) of the amending Act) by Finance Act 2007 (c. 11), **s. 100(8)**
- F912** Words in Sch. 1 para. 1(2) substituted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 11(3)**
- F913** Word in Sch. 1 para. 1(2)(a) substituted (1.4.2017) by The Value Added Tax (Increase of Registration Limits) Order 2017 (S.I. 2017/290), arts. 1, **3(a)**
- F914** Word in Sch. 1 para. 1(2)(b) substituted (1.4.2017) by The Value Added Tax (Increase of Registration Limits) Order 2017 (S.I. 2017/290), arts. 1, **3(a)**
- F915** Sch. 1 para. 1(2A) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 11(4)**
- F916** Word in Sch. 1 para. 1(3) substituted (1.4.2017) by The Value Added Tax (Increase of Registration Limits) Order 2017 (S.I. 2017/290), arts. 1, **3(b)**
- F917** Words in Sch. 1 para. 1(4)(a) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 11(5)**
- F918** Words in Sch. 1 para. 1(4)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 81(2)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F919** Words in Sch. 1 para. 1(4)(a)(5) substituted (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by 2000 c. 17, **s. 136(6)(a)**
- F920** Words in Sch. 1 para. 1(5) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 11(6)**
- F921** Words in Sch. 1 para. 1(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 81(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F922** Words in Sch. 1 para. 1(7) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 81(2)(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F923** Sch. 1 para. 1(9) added (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 13**; S.I. 1996/1249, **art. 2**
- F924** Words in Sch. 1 para. 1(9) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 81(2)(d)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F925** Sch. 1 para. 1(10) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 11(7)**

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- [<sup>F926</sup>1A(1) Paragraph 2 below is for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of VAT.
- (2) In determining for the purposes of sub-paragraph (1) above whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those activities are closely bound to one another by financial, economic and organisational links.]

**Textual Amendments**  
**F926** Sch. 1 para. 1A inserted (19.3.1997) by 1997 c. 16, s. 31(1)

- 2 (1) Without prejudice to paragraph 1 above, if the Commissioners make a direction under this paragraph, the persons named in the direction shall be treated as a single taxable person carrying on the activities of a business described in the direction and that taxable person shall be liable to be registered under this Schedule with effect from the date of the direction or, if the direction so provides, from such later date as may be specified therein.
- (2) The Commissioners shall not make a direction under this paragraph naming any person unless they are satisfied—
- (a) that he is making or has made taxable supplies; and
  - (b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities <sup>F927</sup> . . . , the other activities being carried on concurrently or previously (or both) by one or more other persons; and
  - (c) that, if all the taxable supplies of [<sup>F928</sup>the business described in the direction] were taken into account, a person carrying on that business would at the time of the direction be liable to be registered by virtue of paragraph 1 above; <sup>F929</sup> . . .
- <sup>F929</sup>(d) . . . . .
- (3) A direction made under this paragraph shall be served on each of the persons named in it.
- (4) Where, after a direction has been given under this paragraph specifying a description of business, it appears to the Commissioners that a person who was not named in that direction is making taxable supplies in the course of activities which should <sup>F930</sup> . . . be regarded as part of the activities of that business, the Commissioners may make and serve on him a supplementary direction referring to the earlier direction and the description of business specified in it and adding that person’s name to those of the persons named in the earlier direction with effect from—
- (a) the date on which he began to make those taxable supplies, or
  - (b) if it was later, the date with effect from which the single taxable person referred to in the earlier direction became liable to be registered under this Schedule.
- (5) If, immediately before a direction (including a supplementary direction) is made under this paragraph, any person named in the direction is registered in respect of the taxable supplies made by him as mentioned in sub-paragraph (2) or (4) above, he shall cease to be liable to be so registered with effect from whichever is the later of—

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- (a) the date with effect from which the single taxable person concerned became liable to be registered; and
  - (b) the date of the direction.
- (6) In relation to a business specified in a direction under this paragraph, the persons named in the direction, together with any person named in a supplementary direction relating to that business (being the persons who together are to be treated as the taxable person), are in sub-paragraphs (7) and (8) below referred to as “the constituent members”.
- (7) Where a direction is made under this paragraph then, for the purposes of this Act—
- (a) the taxable person carrying on the business specified in the direction shall be registerable in such name as the persons named in the direction may jointly nominate by notice in writing given to the Commissioners not later than 14 days after the date of the direction or, in default of such a nomination, in such name as may be specified in the direction;
  - (b) any supply of goods or services by or to one of the constituent members in the course of the activities of the taxable person shall be treated as a supply by or to that person;
  - <sup>F931</sup>(c) .....
  - (d) each of the constituent members shall be jointly and severally liable for any VAT due from the taxable person;
  - (e) without prejudice to paragraph (d) above, any failure by the taxable person to comply with any requirement imposed by or under this Act shall be treated as a failure by each of the constituent members severally; and
  - (f) subject to paragraphs (a) to (e) above, the constituent members shall be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.
- (8) If it appears to the Commissioners that any person who is one of the constituent members should no longer be regarded as such for the purposes of paragraphs (d) and (e) of sub-paragraph (7) above and they give notice to that effect, he shall not have any liability by virtue of those paragraphs for anything done after the date specified in that notice and, accordingly, on that date he shall be treated as having ceased to be a member of the partnership referred to in paragraph (f) of that sub-paragraph.

#### Textual Amendments

- F927** Words in Sch. 1 para. 2(2)(b) repealed (19.3.1997 with effect in accordance with s. 39 of the repealing Act) by 1997 c. 16, ss. 31(2)(a)(4), 113, **Sch. 18 Pt. IV(1)** Note
- F928** Words in Sch. 1 para. 2(c) substituted (19.3.1997) by 1997 c. 16, s. 31(2)(b)(4)
- F929** Sch. 1 para. 2(2)(d) and word “and” immediately preceding it repealed (19.3.1997 with effect in accordance with s. 39 of the repealing Act) by 1997 c. 16, ss. 31(2)(c)(4), 113, **Sch. 18 Pt. IV(1)** Note
- F930** Word in Sch. 1 para. 2(4) repealed (19.3.1997 with effect in accordance with s. 39 of the repealing Act) by 1997 c. 16, ss. 31(2)(4), 113, **Sch. 18 Pt. IV(1)** Note
- F931** Sch. 1 para. 2(7)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 81(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 3 A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Commissioners are satisfied in relation to that time that he—
- (a) has ceased to make taxable supplies; or
  - (b) is not at that time a person in relation to whom any of the conditions specified in paragraphs 1(1)(a) and (b) and (2)(a) and (b) above is satisfied<sup>F932</sup>; or
  - (c) is not at that time UK-established (see paragraph 1(10)).]

#### Textual Amendments

**F932** Sch. 1 para. 3(c) and word inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), Sch. 28 para. 12

- 4 (1) Subject to sub-paragraph (2) below, a person who has become liable to be registered under this Schedule shall cease to be so liable at any time after being registered if the Commissioners are satisfied that the value of his taxable supplies in the period of one year then beginning will not exceed <sup>F933</sup>£83,000].
- (2) A person shall not cease to be liable to be registered under this Schedule by virtue of sub-paragraph (1) above if the Commissioners are satisfied that the reason the value of his taxable supplies will not exceed <sup>F934</sup>£83,000] is that in the period in question he will cease making taxable supplies, or will suspend making them for a period of 30 days or more.
- (3) In determining the value of a person's supplies for the purposes of sub-paragraph (1) above, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied <sup>F935</sup>... shall be disregarded.
- (4) Where, apart from this sub-paragraph, an interest in, right over or licence to occupy any land would under sub-paragraph (3) above be disregarded for the purposes of sub-paragraph (1) above, it shall not be if it is supplied on a taxable supply which is not zero-rated.

#### Textual Amendments

**F933** Word in Sch. 1 para. 4(1) substituted (1.4.2017) by The Value Added Tax (Increase of Registration Limits) Order 2017 (S.I. 2017/290), arts. 1, 3(c)

**F934** Word in Sch. 1 para. 4(2) substituted (1.4.2017) by The Value Added Tax (Increase of Registration Limits) Order 2017 (S.I. 2017/290), arts. 1, 3(c)

**F935** Words in Sch. 1 para. 4(3) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 81(4) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### *Notification of liability and registration*

- 5 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) above shall notify the Commissioners of the liability within 30 days of the end of the relevant month.

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- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the end of the month following the relevant month or from such earlier date as may be agreed between them and him.
- (3) In this paragraph “the relevant month”, in relation to a person who becomes liable to be registered by virtue of paragraph 1(1)(a) above, means the month at the end of which he becomes liable to be so registered.
- 6 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) above shall notify the Commissioners of the liability before the end of the period by reference to which the liability arises.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the beginning of the period by reference to which the liability arises.
- 7 (1) A person who becomes liable to be registered by virtue of paragraph 1(2) above shall notify the Commissioners of the liability within 30 days of the time when the business is transferred.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the time when the business is transferred.
- 8 Where a person becomes liable to be registered by virtue of paragraph 1(1)(a) above and by virtue of paragraph 1(1)(b) or 1(2) above at the same time, the Commissioners shall register him in accordance with paragraph 6(2) or 7(2) above, as the case may be, rather than paragraph 5(2) above.

*Entitlement to be registered*

- 9 Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that he—
- (a) makes taxable supplies; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,
- they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.
- 10 (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that he—
- (a) makes supplies within sub-paragraph (2) below; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,
- and (in either case) is within sub-paragraph (3) below, they shall, if he so requests, register him with effect from the day on which the request is made or from such earlier date as may be agreed between them and him.
- [<sup>F936</sup>(2) A supply is within this sub-paragraph if—
- (a) it is made outside the United Kingdom but would be a taxable supply if made in the United Kingdom; or
- (b) it is specified for the purposes of subsection (2) of section 26 in an order made under paragraph (c) of that subsection.]
- (3) A person is within this sub-paragraph if—

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- (a) he has a business establishment in the United Kingdom or his usual place of residence is in the United Kingdom; and
  - (b) he does not make and does not intend to make taxable supplies.
- (4) For the purposes of this paragraph—
- (a) a person carrying on a business through a branch or agency in the United Kingdom shall be treated as having a business establishment in the United Kingdom, and
  - (b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.

#### Textual Amendments

**F936** Sch. 1 para. 10(2) substituted (19.3.1997) by 1997 c. 16, s. 32

#### *Notification of end of liability or entitlement etc*

- 11 A person registered under paragraph 5, 6 or 9 above who ceases to make or have the intention of making taxable supplies shall notify the Commissioners of that fact within 30 days of the day on which he does so unless he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.
- 12 A person registered under paragraph 10 above who—
- (a) ceases to make or have the intention of making supplies within sub-paragraph (2) of that paragraph; or
  - (b) makes or forms the intention of making taxable supplies,
- shall notify the Commissioners of that fact within 30 days of the day on which he does so unless, in the case of a person ceasing as mentioned in sub-paragraph (a) above, he would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.

#### *Cancellation of registration*

- 13 (1) Subject to sub-paragraph (4) below, where a registered person satisfies the Commissioners that he is not liable to be registered under this Schedule, they shall, if he so requests, cancel his registration with effect from the day on which the request is made or from such later date as may be agreed between them and him.
- (2) Subject to sub-paragraph (5) below, where the Commissioners are satisfied that a registered person has ceased to be registrable, they may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between them and him.
- (3) Where the Commissioners are satisfied that on the day on which a registered person was registered he was not registrable, they may cancel his registration with effect from that day.
- (4) The Commissioners shall not under sub-paragraph (1) above cancel a person’s registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement to be registered under this Act.



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- (5) The Commissioners shall not under sub-paragraph (2) above cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
- (6) In determining for the purposes of sub-paragraph (4) or (5) above whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.
- (7) In this paragraph, any reference to a registered person is a reference to a person who is registered under this Schedule.

<sup>F937</sup>(8) .....

**Textual Amendments**

**F937** Sch. 1 para. 13(8) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 81(5) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

*Exemption from registration*

- 14 (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make taxable supplies satisfies the Commissioners that any such supply is zero-rated or would be zero-rated if he were a taxable person, they may, if he so requests and they think fit, exempt him from registration under this Schedule until it appears to them that the request should no longer be acted upon or is withdrawn.
- (2) Where there is a material change in the nature of the supplies made by a person exempted under this paragraph from registration under this Schedule, he shall notify the Commissioners of the change—
  - (a) within 30 days of the date on which it occurred; or
  - (b) if no particular day is identifiable as the day on which it occurred, within 30 days of the end of the quarter in which it occurred.
- (3) Where there is a material alteration in any quarter in the proportion of taxable supplies of such a person that are zero-rated, he shall notify the Commissioners of the alteration within 30 days of the end of the quarter.

*Power to vary specified sums by order*

- 15 The Treasury may by order substitute for any of the sums for the time being specified in this Schedule such greater sums as they think fit.

*Supplementary*

- 16 The value of a supply of goods or services shall be determined for the purposes of this Schedule on the basis that no VAT is chargeable on the supply.

*Status: Point in time view as at 26/07/2021.*

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- 17 Any notification required under this Schedule shall be made in such form [<sup>F938</sup>and manner] and shall contain such particulars [<sup>F939</sup>as may be specified in regulations or by the Commissioners in accordance with regulations.]

**Textual Amendments**

**F938** Words in Sch. 1 para. 17 inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 8\(a\)](#)

**F939** Words in Sch. 1 para. 17 substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 8\(b\)](#)

- 18 In this Schedule “registrable” means liable or entitled to be registered under this Schedule.
- 19 References in this Schedule to supplies are references to supplies made in the course or furtherance of a business.

[<sup>F940</sup>SCHEDULE 1A

REGISTRATION IN RESPECT OF TAXABLE SUPPLIES: NON-UK ESTABLISHMENT

**Textual Amendments**

**F940** Sch. 1A inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 1](#)

*Liability to be registered*

- 1 (1) A person becomes liable to be registered under this Schedule at any time if conditions A to D are met.
- (2) Condition A is that—
- (a) the person makes taxable supplies, or
  - (b) there are reasonable grounds for believing that the person will make taxable supplies in the period of 30 days then beginning.
- (3) Condition B is that those supplies (or any of them) are or will be made in the course or furtherance of a business carried on by the person.
- (4) Condition C is that the person has no business establishment, or other fixed establishment, in the United Kingdom in relation to any business carried on by the person.
- (5) Condition D is that the person is not registered under this Act.
- 2 (1) A person does not become liable to be registered by virtue of paragraph 1(2)(b) if the reason for believing that taxable supplies will be made in the 30-day period mentioned there is that a business, or part of a business, carried on by a taxable person is to be transferred to the person as a going concern in that period.
- (2) But if the transfer takes place, the transferee becomes liable to be registered under this Schedule at the time of the transfer if conditions A to D in paragraph 1 are met in relation to the transferee at that time.

*Status: Point in time view as at 26/07/2021.*

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- (3) In determining for the purposes of sub-paragraph (2) whether condition B is met, the reference in paragraph 1(3) to a business is to be read as a reference to the business, or part of the business, that is transferred to the transferee.
- 3 A person is treated as having become liable to be registered under this Schedule at any time when the person would have become so liable under paragraph 1 or 2 but for any registration that is subsequently cancelled under—
- (a) paragraph 11,
  - (b) paragraph 13(3) of Schedule 1,
  - <sup>F941</sup>(c) .....
  - (d) <sup>F942</sup>... or
  - (e) paragraph 6(2) of Schedule 3A.

**Textual Amendments**

- F941** Sch. 1A para. 3(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 82(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F942** Sch. 1A para. 3(d) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 82(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 4 (1) A person does not cease to be liable to be registered under this Schedule except in accordance with sub-paragraph (2).
- (2) A person who has become liable to be registered under this Schedule ceases to be so liable at any time if the Commissioners are satisfied that—
- (a) the person has ceased to make taxable supplies in the course or furtherance of a business carried on by the person, or
  - (b) the person is no longer a person in relation to whom condition C in paragraph 1 is met.

*Notification of liability and registration*

- 5 (1) A person who becomes liable to be registered by virtue of paragraph 1(2)(a) or 2(2) must notify the Commissioners of the liability before the end of the period of 30 days beginning with the day on which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person so notifies them) with effect from the beginning of the day on which the liability arises.
- 6 (1) A person who becomes liable to be registered by virtue of paragraph 1(2)(b) must notify the Commissioners of the liability before the end of the period by reference to which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person so notifies them) with effect from the beginning of the period by reference to which the liability arises.

*Status: Point in time view as at 26/07/2021.*

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### *Notification of end of liability*

- 7 (1) A person registered under paragraph 5 or 6 who, on any day, ceases to make or have the intention of making taxable supplies in the course or furtherance of a business carried on by that person must notify the Commissioners of that fact within 30 days beginning with that day.
- (2) But the person need not notify the Commissioners if on that day the person would otherwise be liable or entitled to be registered under this Act (disregarding for this purpose the person's registration under this Schedule and any enactment that prevents a person from being liable to be registered under different provisions at the same time).

### *Cancellation of registration*

- 8 (1) The Commissioners must cancel a person's registration under this Schedule if—
- (a) the person satisfies them that the person is not liable to be registered under this Schedule, and
  - (b) the person requests the cancellation.
- (2) The cancellation is to be made with effect from—
- (a) the day on which the request is made, or
  - (b) such later day as may be agreed between the Commissioners and the person.
- (3) But the Commissioners must not cancel the registration with effect from any time unless they are satisfied that it is not a time when the person would be subject to a requirement to be registered under this Act.
- 9 (1) The Commissioners may cancel a person's registration under this Schedule if they are satisfied that the person has ceased to be liable to be registered under this Schedule.
- (2) The cancellation is to be made with effect from—
- (a) the day on which the person ceased to be so liable, or
  - (b) such later day as may be agreed between the Commissioners and the person.
- (3) But the Commissioners must not cancel the registration with effect from any time unless they are satisfied that it is not a time when the person would be subject to a requirement, or entitled, to be registered under this Act.
- 10 In determining for the purposes of paragraphs 8 and 9 whether a time is a time when a person would be subject to a requirement, or entitled, to be registered under this Act, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision must be disregarded.
- 11 (1) The Commissioners may cancel a person's registration under this Schedule if they are satisfied that the person was not liable to be registered under this Schedule on the day on which the person was registered.
- (2) The cancellation is to be made with effect from the day on which the person was registered.

*Status: Point in time view as at 26/07/2021.*

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### Textual Amendments

**F943** Sch. 1A para. 12 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 82\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### *Exemption from registration*

- 13 (1) The Commissioners may exempt a person from registration under this Schedule if the person satisfies them that the taxable supplies that the person makes or intends to make—
- (a) are all zero-rated, or
  - (b) would all be zero-rated if the person were a taxable person.
- (2) The power in sub-paragraph (1) is exercisable only if the person so requests and the Commissioners think fit.
- (3) If there is a material change in the nature of the supplies made by a person exempted under this paragraph, the person must notify the Commissioners of the change—
- (a) within 30 days beginning with the day on which the change occurred, or
  - (b) if no particular day is identifiable as that day, within 30 days of the end of the quarter in which the change occurred.
- (4) If it appears to the Commissioners that a request under this paragraph should no longer be acted upon on or after any day or has been withdrawn on any day, they must register the person who made the request with effect from that day.
- (5) A reference in this paragraph to supplies is to supplies made in the course or furtherance of a business carried on by the person.

### *Supplementary*

- 14 Any notification required under this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.]

## <sup>F944</sup>SCHEDULE 2

### REGISTRATION IN RESPECT OF SUPPLIES FROM OTHER MEMBER STATES

### Textual Amendments

**F944** Sch. 2 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 83](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Liability to be registered*

F944<sub>1</sub> .....

F944<sub>2</sub> .....

*Notification of liability and registration*

F944<sub>3</sub> .....

*Request to be registered*

F944<sub>4</sub> .....

*Notification of matters affecting continuance of registration*

F944<sub>5</sub> .....

*Cancellation of registration*

F944<sub>6</sub> .....

*Conditions of cancellation*

F944<sub>7</sub> .....

*Power to vary specified sums by order*

F944<sub>8</sub> .....

*Supplementary*

F944<sub>9</sub> .....

F944<sub>10</sub> .....

F945 SCHEDULE 3

REGISTRATION IN RESPECT OF ACQUISITIONS FROM OTHER MEMBER STATES

**Textual Amendments**

**F945** Sch. 3 omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\)](#), [Sch. 8 para. 84](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

*Liability to be registered*

F945<sub>1</sub> .....

*Status: Point in time view as at 26/07/2021.*

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F945<sup>2</sup> .....

*Notification of liability and registration*

F945<sup>3</sup> .....

*Entitlement to be registered etc*

F945<sup>4</sup> .....

*Notification of matters affecting continuance of registration*

F945<sup>5</sup> .....

*Cancellation of registration*

F945<sup>6</sup> .....

*Conditions of cancellation*

F945<sup>7</sup> .....

*Exemption from registration*

F945<sup>8</sup> .....

*Power to vary specified sums by order*

F945<sup>9</sup> .....

*Supplementary*

F945<sup>10</sup> .....

F945<sup>11</sup> .....

[<sup>F946</sup>SCHEDULE 3A

REGISTRATION IN RESPECT OF DISPOSALS OF  
ASSETS FOR WHICH A VAT REPAYMENT IS CLAIMED

**Textual Amendments**

**F946** Sch. 3A paras. 1-9 inserted (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by 2000 c. 17, s. 136(8), **Sch. 36**

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Liability to be registered*

- 1 (1) A person who is not registered under this Act, and is not liable to be registered under [F947 Schedule 1 or 1A], becomes liable to be registered under this Schedule at any time—
  - (a) if he makes relevant supplies; or
  - (b) if there are reasonable grounds for believing that he will make such supplies in the period of 30 days then beginning.
- (2) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under sub-paragraph (1) above but for any registration which is subsequently cancelled under paragraph 6(2) below, paragraph 13(3) of Schedule 1 [F948 or paragraph 11 of Schedule 1A].
- (3) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2 below.

#### **Textual Amendments**

**F947** Words in Sch. 3A para. 1(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 85\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F948** Words in Sch. 3A para. 1(2) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 85\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 2 A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Commissioners are satisfied that he has ceased to make relevant supplies.

### *Notification of liability and registration*

- 3 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) above shall notify the Commissioners of the liability before the end of the period of 30 days beginning with the day on which the liability arises.
  - (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the beginning of the day on which the liability arises.
- 4 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) above shall notify the Commissioners of the liability before the end of the period by reference to which the liability arises.
  - (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the beginning of the period by reference to which the liability arises.

### *Notification of end of liability*

- 5 (1) Subject to sub-paragraph (2) below, a person registered under paragraph 3 or 4 above who ceases to make or have the intention of making relevant supplies shall notify the Commissioners of that fact within 30 days of the day on which he does so.



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- (2) Sub-paragraph (1) above does not apply if the person would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.

#### *Cancellation of registration*

- 6 (1) Subject to sub-paragraph (3) below, where the Commissioners are satisfied that a registered person has ceased to be liable to be registered under this Schedule, they may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between them and him.
- (2) Where the Commissioners are satisfied that on the day on which a registered person was registered he was not registrable, they may cancel his registration with effect from that day.
- (3) The Commissioners shall not under sub-paragraph (1) above cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.
- (4) In determining for the purposes of sub-paragraph (3) above whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

#### *Exemption from registration*

- 7 (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make relevant supplies satisfies the Commissioners that any such supply is zero-rated or would be zero-rated if he were a taxable person, they may, if he so requests and they think fit, exempt him from registration under this Schedule.
- (2) Where there is a material change in the nature of the supplies made by a person exempted under this paragraph from registration under this Schedule, he shall notify the Commissioners of the change—
- (a) within 30 days of the date on which the change occurred; or
  - (b) if no particular date is identifiable as the day on which it occurred, within 30 days of the end of the quarter in which it occurred.
- (3) Where there is a material alteration in any quarter in the proportion of relevant supplies of such a person that are zero-rated, he shall notify the Commissioners of the alteration within 30 days of the end of the quarter.
- (4) If it appears to the Commissioners that a request under sub-paragraph (1) above should no longer have been acted upon on or after any day, or has been withdrawn on any day, they shall register the person who made the request with effect from that day.

#### *Supplementary*

- 8 Any notification required under this Schedule shall be made in such form [F<sup>949</sup> and manner] and shall contain such particulars [F<sup>950</sup> as may be specified in regulations or by the Commissioners in accordance with regulations.]

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#### Textual Amendments

- F949** Words in Sch. 3A para. 8 inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 11\(a\)](#)  
**F950** Words in Sch. 3A para. 8 substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 11\(b\)](#)

- 9 (1) For the purposes of this Schedule a supply of goods is a relevant supply where—
- (a) the supply is a taxable supply;
  - (b) the goods are assets of the business in the course or furtherance of which they are supplied; and
  - (c) the person by whom they are supplied, or a predecessor of his, has received or claimed, or is intending to claim, a repayment of VAT on the supply to him, or the importation by him, of the goods or of anything comprised in them.
- (2) In relation to any goods, a person is the predecessor of another for the purposes of this paragraph if—
- (a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or part of it, as a going concern;
  - (b) those assets consisted of or included those goods; and
  - (c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;
- and the reference in this paragraph to a person’s predecessor includes references to the predecessors of his predecessor through any number of transfers.
- (3) The reference in this paragraph to a repayment of VAT is a reference to such a repayment under a scheme embodied in regulations made under section 39. ]

### F951 SCHEDULE 3B

#### ELECTRONIC, TELECOMMUNICATION AND BROADCASTING SERVICES: NON-UNION SCHEME

#### Textual Amendments

- F951** Sch. 3B omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 86](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), [14](#), [16](#), [21](#)), S.I. 2020/1545, [Pt. 4](#) and 2020 c. 26, [Sch. 7 para. 7\(7\)–\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

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## F952 SCHEDULE 3BA

### ELECTRONIC, TELECOMMUNICATION AND BROADCASTING SERVICES: UNION SCHEME

#### Textual Amendments

**F952** Sch. 3BA omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 87](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), [15](#), [16](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26, Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

#### Modifications etc. (not altering text)

**C95** Sch. 3BA saving for effects of [2018 c. 22, Sch. 8 para. 87 \(31.12.2020\)](#) by [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1495\)](#), regs. 1(2), [15](#), [16](#); [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)

F952

## SCHEDULE 4

Section 5.

### MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES

#### Modifications etc. (not altering text)

**C96** Sch. 4 applied (with modifications) ([1.4.2009](#)) by [Finance Act 2008 \(c. 9\), s. 113\(2\), Sch. 36 para. 34\(4\)](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), [art. 2](#)

- 1 (1) Any transfer of the whole property in goods is a supply of goods; but, subject to subparagraph (2) below, the transfer—
- (a) of any undivided share of the property, or
  - (b) of the possession of goods,
- is a supply of services.
- (2) If the possession of goods is transferred—
- (a) under an agreement for the sale of the goods, or
  - (b) under agreements which expressly contemplate that the property also will pass at some time in the future (determined by, or ascertainable from, the agreements but in any case not later than when the goods are fully paid for),
- it is then in either case a supply of the goods.

F953<sub>2</sub>

#### Textual Amendments

**F953** Sch. 4 para. 2 repealed ([29.4.1996](#) with application to supplies made on or after [1.1.1996](#)) by [1996 c. 8, ss. 29\(4\)\(5\), 205, Sch. 41 Pt. IV\(2\)](#)

- 3 The supply of any form of power, heat, refrigeration [<sup>F954</sup>or other cooling,] or ventilation is a supply of goods.

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**Textual Amendments**

**F954** Words in Sch. 4 para. 3 inserted (with effect in accordance with s. 20(3) of the amending Act) by **Finance (No. 3) Act 2010 (c. 33), s. 20(2)**

4 The grant, assignment or surrender of a major interest in land is a supply of goods.

5 (1) Subject to sub-paragraph (2) below, where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, that is a supply by him of goods.

(2) Sub-paragraph (1) above does not apply where the transfer or disposal is—

[<sup>F955</sup>(a) a business gift the cost of which, together with the cost of any other business gifts made to the same person in the same year, was not more than £50.]

[<sup>F956</sup>(b) the provision to a person, otherwise than for a consideration, of a sample of goods.]

[<sup>F957</sup>(2ZA) In sub-paragraph (2) above—

“business gift” means a gift of goods that is made in the course or furtherance of the business in question;

“cost”, in relation to a gift of goods, means the cost to the donor of acquiring or, as the case may be, producing the goods;

“the same year”, in relation to a gift, means any period of twelve months that includes the day on which the gift is made.]

[<sup>F958</sup>(2A) For the purposes of determining the cost to the donor of acquiring or producing goods of which he has made a gift, where—

(a) the acquisition by the donor of the goods, or anything comprised in the goods, was by means of a transfer of a business, or a part of a business, as a going concern,

(b) the assets transferred by that transfer included those goods or that thing, and

(c) the transfer of those assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services,

the donor and his predecessor or, as the case may be, all of his predecessors shall be treated as if they were the same person.]

<sup>F959</sup>(3) . . . . .

(4) Where by or under the directions of a person carrying on a business goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, that is a supply of services.

<sup>F960</sup>(4A) . . . . .

[<sup>F961</sup>(4A) Sub-paragraph (4) does not apply (despite paragraph 9(1)) to—

(a) any interest in land,

(b) any building or part of a building,

(c) any civil engineering work or part of such a work,

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- (d) any goods incorporated or to be incorporated in a building or civil engineering work (whether by being installed as fixtures or fittings or otherwise),
  - (e) any ship, boat or other vessel, or
  - (f) any aircraft.]
- (5) Neither sub-paragraph (1) nor [<sup>F962</sup>sub-paragraph (4) above] shall require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person [<sup>F963</sup>or any of his predecessors is a person who (disregarding this paragraph) has or will become] entitled—
- [<sup>F964</sup>(a) under sections 25 and 26, to credit for the whole or any part of the VAT on the supply<sup>F965</sup> ... or importation of those goods or of anything comprised in them; or
  - (b) under a scheme embodied in regulations made under section 39, to a repayment of VAT on the supply or importation of those goods or of anything comprised in them.]
- [<sup>F966</sup>(5A) In relation to any goods or anything comprised in any goods, a person is the predecessor of another for the purposes of this paragraph if—
- (a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;
  - (b) those assets consisted of or included those goods or that thing; and
  - (c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;
- and references in this paragraph to a person's predecessors include references to the predecessors of his predecessors through any number of transfers.]
- (6) Anything which is a supply of goods or services by virtue of sub-paragraph (1) or (4) above is to be treated as made in the course or furtherance of the business (if it would not otherwise be so treated); and in the case of a business carried on by an individual—
- (a) sub-paragraph (1) above applies to any transfer or disposition of goods in favour of himself personally; and
  - (b) [<sup>F962</sup>sub-paragraph (4) above] applies to goods used, or made available for use, by himself personally.
- [<sup>F967</sup>(7) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (2)(a) above such sum, not being less than £10, as they think fit.]

#### Textual Amendments

- F955** Sch. 4 para. 5(2)(a) substituted (with application in accordance with s. 21(4) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 21\(2\)](#)
- F956** Sch. 4 para. 5(2)(b) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\), s. 74\(2\)](#)
- F957** Sch. 4 para. 5(2ZA) inserted (with application in accordance with s. 21(4) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 21\(3\)](#)
- F958** Sch. 4 para. 5(2A) inserted (31.7.1998 with effect as mentioned in [s. 21\(6\)](#) of the amending Act) by [1998 c. 36, s. 21\(3\)\(6\)](#)
- F959** Sch. 4 para. 5(3) omitted (19.7.2011) by virtue of [Finance Act 2011 \(c. 11\), s. 74\(3\)](#)

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- F960** Sch. 4 para. 5(4A) repealed (1.9.2007) by Finance Act 2007 (c. 11), s. 99(2)(6), **Sch. 27 Pt. 6(1)**
- F961** Sch. 4 para. 5(4A) inserted (with application in accordance with Sch. 8 para. 3(3)-(5) of the amending Act) by Finance (No. 3) Act 2010 (c. 33), **Sch. 8 para. 3(1)(2)** (with Sch. 8 para. 4)
- F962** Words in Sch. 4 para. 5(5)(6)(b) substituted (retrospectively) by 1995 c. 4, **s. 33(3)(a)**
- F963** Words in Sch. 4 para. 5(5) substituted (31.7.1998 with effect as mentioned in s. 21(6) of the amending Act) by 1998 c. 36, **s. 21(4)(6)**
- F964** Sch. 4 para. 5(5)(a)(b) substituted for words in Sch. 4 para. 5(5) (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by 2000 c. 17, **s. 136(9)**
- F965** Word in Sch. 4 para. 5(5)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 88(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F966** Sch. 4 para. 5A inserted (31.7.1998 with effect as mentioned in s. 21(6) of the amending Act) by 1998 c. 36, **s. 21(5)(6)**
- F967** Sch. 4 para. 5(7) inserted (29.4.1996) by 1996 c. 8, **s. 33(2)**

#### Modifications etc. (not altering text)

- C97** Sch. 4 para. 5(4) excluded by S.I. 1995/1268, art. 10A (as inserted (1.11.2007) by The Value Added Tax (Special Provisions) (Amendment) Order 2007 (S.I. 2007/2923), arts. 1, 3)

**F968**<sup>6</sup> .....

#### Textual Amendments

- F968** Sch. 4 para. 6 omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 88(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 7 Where in the case of a business carried on by a taxable person goods forming part of the assets of the business are, under any power exercisable by another person, sold by the other in or towards satisfaction of a debt owed by the taxable person, they shall be deemed to be supplied by the taxable person in the course or furtherance of his business.
- 8 (1) Where a person ceases to be a taxable person, any goods then forming part of the assets of a business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
- (a) the business is transferred as a going concern to another taxable person; or
  - (b) the business is carried on by another person who, under regulations made under section 46(4), is treated as a taxable person; or
  - (c) the VAT on the deemed supply would not be more than [<sup>F969</sup>£1,000].
- (2) This paragraph does not apply to any goods in the case of which the taxable person can show to the satisfaction of the Commissioners—
- (a) that no credit for input tax has been allowed to him in respect of the supply of the goods [<sup>F970</sup>or their importation into the United Kingdom];
  - (b) that the goods did not become his as part of the assets of a business [<sup>F971</sup>, or part of a business,] which was transferred to him as a going concern by another taxable person; and

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- (c) that he has not obtained relief in respect of the goods under section 4 of the <sup>M33</sup>Finance Act 1973.
- (3) This paragraph does not apply where a person ceases to be a taxable person in consequence of having been certified under section 54.
- (4) The Treasury may by order increase or further increase the sum specified in sub-paragraph (1)(c) above.

#### Textual Amendments

**F969** Words in Sch. 4 para. 8(1)(c) substituted (1.4.2000) by [S.I. 2000/266, art. 2](#)

**F970** Words in [Sch. 4 para. 8\(2\)\(a\)](#) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 88\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

**F971** Words in Sch. 4 para. 8(2)(b) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(9\)](#)

#### Marginal Citations

**M33** [1973 c. 51](#).

- 9 (1) Subject to sub-paragraphs (2) and (3) below, paragraphs 5 to 8 above have effect in relation to land forming part of the assets of, or held or used for the purposes of, a business as if it were goods forming part of the assets of, or held or used for the purposes of, a business.
- (2) In the application of those paragraphs by virtue of sub-paragraph (1) above, references to transfer, disposition or sale shall have effect as references to the grant or assignment of any interest in, right over or licence to occupy the land concerned.
- (3) Except in relation to—
- (a) the grant or assignment of a major interest; or
- (b) a grant or assignment otherwise than for a consideration,
- in the application of paragraph 5(1) above by virtue of sub-paragraph (1) above the reference to a supply of goods shall have effect as a reference to a supply of services.

[<sup>F972</sup>(4) In this paragraph “grant” includes surrender.]

#### Textual Amendments

**F972** [Sch. 4 para. 9\(4\)](#) inserted (with effect in accordance with s. 99(7) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 99\(3\)](#)

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## [<sup>F973</sup>SCHEDULE 4A

Section 7A

### PLACE OF SUPPLY OF SERVICES: SPECIAL RULES

#### Textual Amendments

**F973** Sch. 4A inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 11](#) (with [Sch. 36 para. 19](#))

### PART 1

#### GENERAL EXCEPTIONS

##### *Services relating to land*

- 1 (1) A supply of services to which this paragraph applies is to be treated as made in the country in which the land in connection with which the supply is made is situated.
- (2) This paragraph applies to—
- (a) the grant, assignment or surrender of any interest in or right over land,
  - (b) the grant, assignment or surrender of a personal right to call for or be granted any interest in or right over land,
  - (c) the grant, assignment or surrender of a licence to occupy land or any other contractual right exercisable over or in relation to land (including the provision of holiday accommodation, seasonal pitches for caravans and facilities at caravan parks for persons for whom such pitches are provided and pitches for tents and camping facilities),
  - (d) the provision in an hotel, inn, boarding house or similar establishment of sleeping accommodation or of accommodation in rooms which are provided in conjunction with sleeping accommodation or for the purpose of a supply of catering,
  - (e) any works of construction, demolition, conversion, reconstruction, alteration, enlargement, repair or maintenance of a building or civil engineering work, and
  - (f) services such as are supplied by estate agents, auctioneers, architects, surveyors, engineers and others involved in matters relating to land.
- (3) In sub-paragraph (2)(c) “holiday accommodation” includes any accommodation in a building, hut (including a beach hut or chalet), caravan, houseboat or tent which is advertised or held out as holiday accommodation or as suitable for holiday or leisure use.
- (4) In sub-paragraph (2)(d) “similar establishment” includes premises in which there is provided furnished sleeping accommodation, whether with or without the provision of board or facilities for the preparation of food, which are used by, or held out as being suitable for use by, visitors or travellers.

##### *Passenger transport*

- 2 (1) A supply of services consisting of the transportation of passengers (or of any luggage or motor vehicles accompanying passengers) is to be treated as made in the country



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in which the transportation takes place, and (in a case where it takes place in more than one country) in proportion to the distances covered in each.

- (2) For the purposes of sub-paragraph (1) transportation which takes place partly outside the territorial jurisdiction of a country is to be treated as taking place wholly in the country if—
  - (a) it takes place in the course of a journey between two points in the country (whether or not as part of a longer journey involving travel to or from another country), and
  - (b) the means of transport used does not (except in an emergency or involuntarily) stop, put in or land in another country in the course of the journey between those two points.
- (3) For the purposes of sub-paragraph (1) a pleasure cruise is to be regarded as the transportation of passengers (so that services provided as part of a pleasure cruise are to be treated as supplied in the same place as the transportation of the passengers).
- (4) In sub-paragraph (3) “pleasure cruise” includes a cruise wholly or partly for education or training.

#### *Hiring of means of transport*

- 3 (1) A supply of services consisting of the short-term hiring of a means of transport is to be treated as made in the country in which the means of transport is actually put at the disposal of the person by whom it is hired.

But this is subject to sub-paragraphs (3) and (4).

- (2) For the purposes of this Schedule the hiring of a means of transport is “short-term” if it is hired for a continuous period not exceeding—
  - (a) if the means of transport is a vessel, 90 days, and
  - (b) otherwise, 30 days.
- (3) Where—
  - (a) a supply of services consisting of the hiring of a means of transport would otherwise be treated as made in the United Kingdom, and
  - (b) the services are to any extent effectively used and enjoyed [<sup>F974</sup>outside the United Kingdom],the supply is to be treated to that extent as made [<sup>F975</sup>outside the United Kingdom].
- (4) Where—
  - (a) a supply of services consisting of the hiring of a means of transport would otherwise be treated as made [<sup>F976</sup>outside the United Kingdom], and
  - (b) the services are to any extent effectively used and enjoyed in the United Kingdom,the supply is to be treated to that extent as made in the United Kingdom.

#### **Textual Amendments**

**F974** Words in Sch. 4A para. 3(3)(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 89\(2\)\(a\)\(i\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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- F975** Words in Sch. 4A para. 3(3) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(2)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F976** Words in Sch. 4A para. 3(4)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### *Cultural, educational and entertainment services etc*

F977<sup>4</sup> .....

#### **Textual Amendments**

- F977** Sch. 4A para. 4 omitted (with effect in accordance with Sch. 36 para. 16 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 36 para. 15(2)** (with Sch. 36 para. 19)

### *Restaurant and catering services<sup>F978</sup> ...*

#### **Textual Amendments**

- F978** Word in Sch. 4A para. 5 cross-heading substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

[<sup>F979</sup>5 A supply of restaurant or catering services is to be treated as made in the country in which the services are physically carried out.]

#### **Textual Amendments**

- F979** Sch. 4A para. 5 substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

F980 ...

#### **Textual Amendments**

- F980** Sch. 4A para. 6 and crossheading omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

F980<sup>6</sup> .....

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### *Hiring of goods*

- 7 (1) Where—
- (a) a supply of services consisting of the hiring of any goods other than a means of transport would otherwise be treated as made in the United Kingdom, and
  - (b) the services are to any extent effectively used and enjoyed [<sup>F981</sup>outside the United Kingdom],
- the supply is to be treated to that extent as made [<sup>F982</sup>outside the United Kingdom].
- (2) Where—
- (a) a supply of services consisting of the hiring of any goods other than a means of transport would otherwise be treated as made [<sup>F983</sup>outside the United Kingdom], and
  - (b) the services are to any extent effectively used and enjoyed in the United Kingdom,
- the supply is to be treated to that extent as made in the United Kingdom.

#### **Textual Amendments**

- F981** Words in Sch. 4A para. 7(1)(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(6)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F982** Words in Sch. 4A para. 7(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(6)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F983** Words in Sch. 4A para. 7(2)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### <sup>F984</sup> ...*broadcasting services*

#### **Textual Amendments**

- F984** Words in Sch. 4A para. 8 heading omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Value Added Tax \(Place of Supply of Services\) \(Telecommunication Services\) Order 2017 \(S.I. 2017/778\)](#), arts. 1(1), **2(a)**

- 8 (1) This paragraph applies to a supply of services consisting of the provision of—
- <sup>F985</sup>(a) .....
  - (b) radio or television broadcasting services.
- <sup>F986</sup>(2) .....
- (3) Where—
- (a) a supply of services to which this paragraph applies would otherwise be treated as made in the United Kingdom, and

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- (b) the services are to any extent effectively used and enjoyed [<sup>F987</sup>outside the United Kingdom],  
the supply is to be treated to that extent as made [<sup>F988</sup>outside the United Kingdom].
- (4) Where—
- (a) a supply of services to which this paragraph applies would otherwise be treated as made [<sup>F989</sup>outside the United Kingdom], and
- (b) the services are to any extent effectively used and enjoyed in the United Kingdom,  
the supply is to be treated to that extent as made in the United Kingdom.

#### Textual Amendments

- F985** Sch. 4A para. 8(1)(a) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Value Added Tax \(Place of Supply of Services\) \(Telecommunication Services\) Order 2017 \(S.I. 2017/778\)](#), arts. 1(1), **2(b)**
- F986** Sch. 4A para. 8(2) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Value Added Tax \(Place of Supply of Services\) \(Telecommunication Services\) Order 2017 \(S.I. 2017/778\)](#), arts. 1(1), **2(c)**
- F987** Words in Sch. 4A para. 8(3)(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(7)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F988** Words in Sch. 4A para. 8(3) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(7)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F989** Words in Sch. 4A para. 8(4)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(7)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

## PART 2

### EXCEPTIONS RELATING TO SUPPLIES MADE TO RELEVANT BUSINESS PERSON

#### *Electronically-supplied services*

- 9 (1) Where—
- (a) a supply of services consisting of the provision of electronically supplied services to a relevant business person would otherwise be treated as made in the United Kingdom, and
- (b) the services are to any extent effectively used and enjoyed [<sup>F990</sup>outside the United Kingdom],  
the supply is to be treated to that extent as made [<sup>F991</sup>outside the United Kingdom].
- (2) Where—

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- (a) a supply of services consisting of the provision of electronically supplied services to a relevant business person would otherwise be treated as made [<sup>F992</sup>outside the United Kingdom], and
  - (b) the services are to any extent effectively used and enjoyed in the United Kingdom,
- the supply is to be treated to that extent as made in the United Kingdom.
- (3) Examples of what are electronically supplied services for the purposes of this Schedule include—
- (a) website supply, web-hosting and distance maintenance of programmes and equipment,
  - (b) the supply of software and the updating of software,
  - (c) the supply of images, text and information, and the making available of databases,
  - (d) the supply of music, films and games (including games of chance and gambling games),
  - (e) the supply of political, cultural, artistic, sporting, scientific, educational or entertainment broadcasts (including broadcasts of events), and
  - (f) the supply of distance teaching.
- (4) But where the supplier of a service and the supplier's customer communicate via electronic mail, this does not of itself mean that the service provided is an electronically supplied service for the purposes of this Schedule.

#### Textual Amendments

**F990** Words in Sch. 4A para. 9(1)(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(8)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F991** Words in Sch. 4A para. 9(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(8)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F992** Words in Sch. 4A para. 9(2)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(8)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

<sup>F993</sup> *Admission to cultural, educational and entertainment activities etc*

#### Textual Amendments

**F993** Sch. 4A para. 9A and cross-heading inserted (with effect in accordance with Sch. 36 para. 16 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 36 para. 15(3)** (with Sch. 36 para. 19)

- 9A (1) A supply to a relevant business person of services to which this paragraph applies is to be treated as made in the country in which the events in question actually take place.

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- (2) This paragraph applies to the provision of—
- (a) services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events (including fairs and exhibitions), and
  - (b) ancillary services relating to admission to such events.]

*[<sup>F994</sup>Transport of goods*

**Textual Amendments**

**F994** Sch. 4A paras. 9B, 9C and cross-headings inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Place of Supply of Services\) \(Transport of Goods\) Order 2012 \(S.I. 2012/2787\)](#), arts. 1(1), **2(2)**

- 9B Where—
- (a) a supply of services to a relevant business person consisting of the transportation of goods would otherwise be treated as made in the United Kingdom, and
  - (b) the transportation takes place wholly [<sup>F995</sup>outside the United Kingdom],
- the supply is to be treated as made [<sup>F996</sup>outside the United Kingdom].

**Textual Amendments**

**F995** Words in Sch. 4A para. 9B(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(9)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F996** Words in Sch. 4A para. 9B substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(9)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

*Ancillary transport services*

- 9C (1) Where—
- (a) a supply of services to a relevant business person consisting of ancillary transport services would otherwise be treated as made in the United Kingdom, and
  - (b) the services are physically performed wholly [<sup>F997</sup>outside the United Kingdom],
- the supply is to be treated as made [<sup>F998</sup>outside the United Kingdom].
- (2) In sub-paragraph (1)(a) “ancillary transport services” means loading, unloading, handling and similar activities.]

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#### Textual Amendments

**F997** Words in Sch. 4A para. 9C(1)(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 89(10)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F998** Words in Sch. 4A para. 9C(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 89(10)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### *[<sup>F999</sup>Repair services: contracts of insurance*

#### Textual Amendments

**F999** Sch. 4A para. 9D inserted (1.10.2016) by [The Value Added Tax \(Place of Supply of Services Exceptions Relating to Supplies Made to Relevant Business Person\) Order 2016](#) (S.I. 2016/726), arts. 1(2), 2

- 9D. (1) This paragraph applies to a supply of services consisting of the repair of tangible movable property where—
- (a) the supply is pursuant to a claim made under a contract of insurance, and
  - (b) the supply is made to a relevant business person who is not the person insured.
- (2) Where—
- (a) a supply of services to which this paragraph applies would otherwise be treated as made in the United Kingdom, and
  - (b) the services are effectively used and enjoyed [<sup>F1000</sup>outside the United Kingdom],
- the supply is to be treated as made [<sup>F1001</sup>outside the United Kingdom].
- (3) Where—
- (a) a supply of services to which this paragraph applies would otherwise be treated as made [<sup>F1002</sup>outside the United Kingdom], and
  - (b) the services are effectively used and enjoyed in the United Kingdom,
- the supply is to be treated as made in the United Kingdom.]

#### Textual Amendments

**F1000** Words in Sch. 4A para. 9D(2)(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 89(11)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1001** Words in Sch. 4A para. 9D(2) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 89(11)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1002** Words in Sch. 4A para. 9D(3)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 89(11)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions

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in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### *<sup>F1003</sup>Telecommunication services*

#### Textual Amendments

**F1003**Sch. 4A para. 9E inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Place of Supply of Services\) \(Telecommunication Services\) Order 2017 \(S.I. 2017/778\)](#), arts. 1(1), 3

- 9E. (1) This paragraph applies to a supply of services to a relevant business person consisting of the provision of telecommunication services.
- (2) In this Schedule “telecommunication services” means services relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, including—
- (a) the related transfer or assignment of the right to use capacity for such transmission, emission or reception, and
  - (b) the provision of access to global information networks.
- (3) Where—
- (a) a supply of services to which this paragraph applies would otherwise be treated as made in the United Kingdom, and
  - (b) the services are to any extent effectively used and enjoyed [<sup>F1004</sup>outside the United Kingdom],
- the supply is to be treated to that extent as made [<sup>F1005</sup>outside the United Kingdom].
- (4) Where—
- (a) a supply of services to which this paragraph applies would otherwise be treated as made [<sup>F1006</sup>outside the United Kingdom], and
  - (b) the services are to any extent effectively used and enjoyed in the United Kingdom,
- the supply is to be treated to that extent as made in the United Kingdom.]

#### Textual Amendments

**F1004**Words in [Sch. 4A para. 9E\(3\)\(b\)](#) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 89\(12\)\(a\)\(i\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1005**Words in [Sch. 4A para. 9E\(3\)](#) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 89\(12\)\(a\)\(ii\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1006**Words in [Sch. 4A para. 9E\(4\)\(a\)](#) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 89\(12\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions



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in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### PART 3

#### EXCEPTIONS RELATING TO SUPPLIES NOT MADE TO RELEVANT BUSINESS PERSON

##### *Intermediaries*

- 10 (1) A supply of services to which this paragraph applies is to be treated as made in the same country as the supply to which it relates.
- (2) This paragraph applies to a supply to a person who is not a relevant business person consisting of the making of arrangements for a supply by or to another person or of any other activity intended to facilitate the making of such a supply.

##### *Transport of goods<sup>F1007</sup> ...*

#### **Textual Amendments**

**F1007**Word in Sch. 4A para. 11 cross-heading omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(13)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 11 (1) A supply of services to a person who is not a relevant business person consisting of the transportation of goods is to be treated as made in the country in which the transportation takes place, and (in a case where it takes place in more than one country) in proportion to the distances covered in each.
- (2) For the purposes of sub-paragraph (1) transportation which takes place partly outside the territorial jurisdiction of a country is to be treated as taking place wholly in the country if—
- (a) it takes place in the course of a journey between two points in the country (whether or not as part of a longer journey involving travel to or from another country), and
- (b) the means of transport used does not (except in an emergency or involuntarily) stop, put in or land in another country in the course of the journey between those two points.

**F1008**(3) .....

#### **Textual Amendments**

**F1008**Sch. 4A para. 11(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(14)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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F1009 ...

#### Textual Amendments

**F1009**Sch. 4A para. 12 and crossheading omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 89(15)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

F1009 12 .....

#### *Ancillary transport services*

- 13 (1) A supply to a person who is not a relevant business person of ancillary transport services is to be treated as made where the services are physically performed.
- (2) “Ancillary transport services” means loading, unloading handling and similar activities.

#### *F1010 Long-term hiring of means of transport*

#### Textual Amendments

**F1010**Sch. 4A para. 13A and cross-heading inserted (with effect in accordance with Sch. 36 para. 16 of the amending Act) by [Finance Act 2009](#) (c. 10), **Sch. 36 para. 17** (with [Sch. 36 para. 19](#))

- 13A (1) A supply to a person who is not a relevant business person (“the recipient”) of services consisting of the long-term hiring of a means of transport is to be treated as made in the country in which the recipient belongs.
- But this is subject to sub-paragraph (2) and paragraph 3(3) and (4).
- (2) A supply to a person who is not a relevant business person (“the recipient”) of services consisting of the long-term hiring of a pleasure boat which is actually put at the disposal of the recipient at the supplier's business establishment, or some other fixed establishment of the supplier, is to be treated as made in the country where the pleasure boat is actually put at the disposal of the recipient.
- (3) For the purposes of this Schedule, the hiring of a means of transport is “long-term” if it is not short-term (as to the meaning of which see paragraph 3(2)).]

#### *Valuation services etc*

- 14 A supply to a person who is not a relevant business person of services consisting of the valuation of, or carrying out of work on, goods is to be treated as made where the services are physically performed.

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*[<sup>F1011</sup>Cultural, educational and entertainment services etc*

**Textual Amendments**

**F1011** Sch. 4A para. 14A and cross-heading inserted (with effect in accordance with Sch. 36 para. 16 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 36 para. 15(4)** (with [Sch. 36 para. 19](#))

- 14A (1) A supply to a person who is not a relevant business person of services to which this paragraph applies is to be treated as made in the country in which the activities concerned actually take place.
- (2) This paragraph applies to the provision of—
- (a) services relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities (including fairs and exhibitions), and
  - (b) ancillary services relating to such activities, including services of organisers of such activities.]

*[<sup>F1012</sup>Electronically supplied, telecommunication and broadcasting services]*

**Textual Amendments**

**F1012** Sch. 4A para. 15 cross-heading substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Place of Supply of Services\) \(Exceptions Relating to Supplies Not Made to Relevant Business Person\) Order 2014 \(S.I. 2014/2726\)](#), arts. 1(2), **3(2)**

- <sup>F1013</sup>(1) A supply to a person who is not a relevant business person of services to which this paragraph applies is to be treated as made in the country in which the recipient belongs (but see <sup>F1014</sup>... paragraph 8).
- (2) This paragraph applies to-
- (a) electronically supplied services (as to the meaning of which see paragraph 9(3) and (4)),
  - (b) telecommunication services (as to the meaning of which see [<sup>F1015</sup>paragraph 9E(2)]), and
  - (c) radio and television broadcasting services.]

<sup>F1016</sup>(3) .....

<sup>F1016</sup>(4) .....

<sup>F1016</sup>(5) .....

<sup>F1016</sup>(6) .....

<sup>F1016</sup>(7) .....

**Textual Amendments**

**F1013** Sch. 4A para. 15 substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Place of Supply of Services\) \(Exceptions Relating to Supplies Not Made to Relevant Business Person\) Order 2014 \(S.I. 2014/2726\)](#), arts. 1(2), **3(1)**

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- F1014** Words in Sch. 4A para. 15(1) omitted (31.12.2020) by virtue of [The Value Added Tax \(Place of Supply of Services\) \(Supplies of Electronic, Telecommunication and Broadcasting Services\) \(Amendment and Revocation\) \(EU Exit\) Order 2019 \(S.I. 2019/404\)](#), arts. 2, **3(2)**; S.I. 2020/1641, reg. 2, Sch.
- F1015** Words in Sch. 4A para. 15(2)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Place of Supply of Services\) \(Telecommunication Services\) Order 2017 \(S.I. 2017/778\)](#), arts. 1(1), **4**
- F1016** Sch. 4A para. 15(3)-(7) omitted (31.12.2020) by virtue of [The Value Added Tax \(Place of Supply of Services\) \(Supplies of Electronic, Telecommunication and Broadcasting Services\) \(Amendment and Revocation\) \(EU Exit\) Order 2019 \(S.I. 2019/404\)](#), arts. 2, **3(3)**; S.I. 2020/1641, reg. 2, Sch.

*Other services provided to recipient belonging  
outside <sup>F1017</sup>United Kingdom and the Isle of Man]*

**Textual Amendments**

- F1017** Words in Sch. 4A para. 16 cross-heading substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 89(16)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 16 (1) A supply consisting of the provision to a person (“the recipient”) who—
- (a) is not a relevant business person, and
  - (b) belongs in a country <sup>F1018</sup>other than the United Kingdom or the Isle of Man],
- of services to which this paragraph applies is to be treated as made in the country in which the recipient belongs.
- (2) This paragraph applies to—
- (a) transfers and assignments of copyright, patents, licences, trademarks and similar rights,
  - (b) the acceptance of any obligation to refrain from pursuing or exercising (in whole or in part) any business activity or any rights within paragraph (a),
  - (c) advertising services,
  - (d) services of consultants, engineers, consultancy bureaux, lawyers, accountants, and similar services, data processing and provision of information, other than any services relating to land,
  - (e) banking, financial and insurance services (including reinsurance), other than the provision of safe deposit facilities,
  - <sup>F1019</sup>(f) the provision of access to, or transmission or distribution through—
    - (i) a natural gas system <sup>F1020</sup>in the United Kingdom] or any network connected to <sup>F1021</sup>a natural gas system in the United Kingdom], or
    - (ii) an electricity system, or
    - (iii) a network through which heat or cooling is supplied, and the provision of other directly linked services,]
  - (g) the supply of staff, <sup>F1022</sup>and]
  - (h) the letting on hire of goods other than means of transport,
  - <sup>F1023</sup>(i) .....
  - <sup>F1024</sup>(j) .....

*Status: Point in time view as at 26/07/2021.*

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F1025 (k) . . . . . ]

**Textual Amendments**

- F1018** Words in Sch. 4A para. 16(1)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(17)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1019** Sch. 4A para. 16(2)(f) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Value Added Tax (Exceptions Relating to Supplies not Made to Relevant Business Person) Order 2010 (S.I. 2010/3017), arts. 1(2), **2**
- F1020** Words in Sch. 4A para. 16(2)(f)(i) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(17)(b)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1021** Words in Sch. 4A para. 16(2)(f)(i) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 89(17)(b)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1022** Word in Sch. 4A para. 16(2) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Value Added Tax (Place of Supply of Services) (Exceptions Relating to Supplies Not Made to Relevant Business Person) Order 2014 (S.I. 2014/2726), arts. 1(2), **4(b)**
- F1023** Sch. 4A para. 16(2)(i) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Value Added Tax (Place of Supply of Services) (Exceptions Relating to Supplies Not Made to Relevant Business Person) Order 2014 (S.I. 2014/2726), arts. 1(2), **4(a)**
- F1024** Sch. 4A para. 16(2)(j) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Value Added Tax (Place of Supply of Services) (Exceptions Relating to Supplies Not Made to Relevant Business Person) Order 2014 (S.I. 2014/2726), arts. 1(2), **4(a)**
- F1025** Sch. 4A para. 16(2)(k) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of The Value Added Tax (Place of Supply of Services) (Exceptions Relating to Supplies Not Made to Relevant Business Person) Order 2014 (S.I. 2014/2726), arts. 1(2), **4(a)**

F1026 SCHEDULE 4B

CALL-OFF STOCK ARRANGEMENTS

**Textual Amendments**

- F1026** Sch. 4B omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 7(1)** (with Sch. 2 para. 7(6)-(9)); S.I. 2020/1642, reg. 9

F1026 . . . . .

F1026 . . . . .

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<sup>F1027</sup>SCHEDULE 5

Section 8.

.....

**Textual Amendments**

<sup>F1027</sup>Sch. 5 omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 36 para. 12** (with Sch. 36 para. 19)

[<sup>F1028</sup>SCHEDULE 5A

Section 18B.

GOODS ELIGIBLE TO BE FISCALLY WAREHOUSED

**Textual Amendments**

<sup>F1028</sup>Sch. 5A added (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 18**; S.I. 1996/1249, **art. 2**

Description of goods	[ <sup>F1029</sup> customs tariff (within the meaning of TCTA 2018) code]
Tin	8001

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Copper	7402
	7403
	7405
	7408
Zinc	7901
Nickel	7502
Aluminium	7601
Lead	7801
Indium	ex 811291
	ex 811299
Cereals	1001 to 1005
	1006: unprocessed rice only
	1007 to 1008
Oil seeds and oleaginous fruit	1201 to 1207
Coconuts, Brazil nuts and cashew nuts	801
Other nuts	502
Olives	71120
Grains and seeds (including soya beans)	1201 to 1207
Coffee, not roasted	901 11 0
	901 12 0
Tea	902
Cocoa beans, whole or broken, raw or roasted	1801
Raw sugar	1701 11
	1701 12
Rubber, in primary forms or in plates, sheets or strip	4001
	4002
Wool	5101
Chemicals in bulk	Chapters 28 and 29
Mineral oils (including propane and butane; also including crude petroleum oils)	2709
	2710
	2711 12
	2711 13
Silver	7106

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Platinum (palladium, rhodium)	7110 11 0
	7110 21 0
	7110 31 0
Potatoes	701
Vegetable oils and fats and their fractions, whether or not refined, but not chemically modified	1507 to 1515]

#### Textual Amendments

**F1029** Words in [Sch. 5A](#) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 90](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)

## SCHEDULE 6

Section 19.

### VALUATION: SPECIAL CASES

#### [<sup>F1030</sup> PART 1

#### VALUATION OF SUPPLIES OF FUEL FOR PRIVATE USE

#### Textual Amendments

**F1030** Sch. 6 Pt. 1 inserted (with effect in accordance with [Sch. 38 para. 7\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 2](#)

#### *Option for valuation on flat-rate basis*

- A1 (1) This paragraph applies if, in a prescribed accounting period, supplies of goods by a taxable person (“P”) arise by virtue of paragraph 5(1) of Schedule 4 (but otherwise than for a consideration) where road fuel which is or has previously been supplied to or imported or manufactured by P in the course of P’s business is provided for, or appropriated to, private use.
- (2) For this purpose “road fuel is provided for, or appropriated to, private use” if—
- (a) it is provided or to be provided by P—
    - (i) to an individual for private use in the individual’s own car or a car allocated to the individual, and
    - (ii) by reason of the individual’s employment,
  - (b) where P is an individual, it is appropriated or to be appropriated by P for private use in P’s own car, or
  - (c) where P is a partnership, it is provided or to be provided to any of the individual partners for private use in that partner’s own car.



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- (3) P may opt for all supplies of goods within sub-paragraph (1) made by P in the prescribed accounting period to be valued on the flat-rate basis.
- (4) On the flat-rate basis, the value of all supplies made to any one individual in respect of any one car is that determined in accordance with an order under paragraph B1.
- B1 (1) The Treasury must, by order, make provision about the valuation of supplies on the flat-rate basis.
- (2) In particular, an order under this paragraph must—
- (a) set out a table (“the base valuation table”) by reference to which the value of supplies is to be determined until such time as the base valuation table is replaced under paragraph (b),
  - (b) provide that at regular intervals—
    - (i) the amounts specified in the base valuation table are to be revalorised by the Commissioners in accordance with the order, and
    - (ii) a table (an “updated valuation table”) containing the revalorised amounts is to take effect (and replace any existing table) in accordance with the order, and
  - (c) require the Commissioners to publish any updated valuation table before it takes effect, together with a statement specifying the date from which it has effect.
- (3) An order under this paragraph may provide for the base valuation table and any updated valuation table to be implemented or supplemented by either or both of the following—
- (a) rules set out in the order which explain how the value is to be determined by reference to any table;
  - (b) notes set out in the order with respect to the interpretation or application of any table or any rules or notes.
- (4) Rules or notes may make different provision for different circumstances or cases.

#### *Interpretation*

- C1 (1) For the purposes of this Part of this Schedule—
- (a) any reference to an individual's own car is to be construed as including any car of which for the time being the individual has the use, other than a car allocated to the individual,
  - (b) subject to sub-paragraph (2), a car is at any time to be taken to be allocated to an individual if at that time it is made available (without any transfer of the property in it) either to the individual or to any other person, and is so made available by reason of the individual's employment and for private use, and
  - (c) fuel provided by an employer to an employee and fuel provided to any person for private use in a car which, by virtue of paragraph (b), is for the time being taken to be allocated to the employee is to be taken to be provided to the employee by reason of the employee's employment.
- (2) For the purposes of this Part of this Schedule, in any prescribed accounting period a car is not regarded as allocated to an individual by reason of the individual's employment if—

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- (a) in that period it was made available to, and actually used by, more than one of the employees of one or more employers and, in the case of each of them, it—
    - (i) was made available to that employee by reason of the employment, but
    - (ii) was not in that period ordinarily used by any one of them to the exclusion of the others,
  - (b) in the case of each of the employees, any private use of the car made by the employee in that period was merely incidental to the employee's other use of it in that period, and
  - (c) in that period it was not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.
- (3) In this Part of this Schedule—
- “employment” includes any office, and related expressions are to be construed accordingly;
  - “car” means a motor car as defined by paragraph 1A(4) and (5);
  - “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been or is required to be paid in accordance with that Act.
- (4) The Treasury may, by order, amend the definition of “road fuel” in subparagraph (3).]

## [<sup>F1031</sup>PART 2

### OTHER PROVISIONS]

#### Textual Amendments

**F1031**Sch. 6 renumbered as Sch. 6 Pt. 2 (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 2](#)

- 1 (1) Where—
- (a) the value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value, and
  - (b) the person making the supply and the person to whom it is made are connected, and
  - (c) if the supply is a taxable supply, the person to whom the supply is made is not entitled under sections 25 and 26 to credit for all the VAT on the supply,
- the Commissioners may direct that the value of the supply shall be taken to be its open market value.
- (2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.
- (3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply—

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- (a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and
  - (b) as to which the conditions in paragraphs (a) to (c) of sub-paragraph (1) above are satisfied,
- shall be taken to be its open market value.
- (4) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with [<sup>F1032</sup>section 1122 of the Corporation Tax Act 2010].
- (5) This paragraph does not apply to a supply to which paragraph [<sup>F1033</sup>8A or] 10 below applies.

#### Textual Amendments

**F1032** Words in Sch. 6 para. 1(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 285(b)* (with Sch. 2)

**F1033** Words in Sch. 6 para. 1(5) inserted (with effect in accordance with s. 200(8) of the amending Act) by *Finance Act 2012 (c. 14), s. 200(6)*

[<sup>F1034</sup>1A(1) Where—

- (a) the value of a supply made by a taxable person for a consideration is (apart from this sub-paragraph) less than its open market value,
  - (b) the taxable person is a motor manufacturer or motor dealer,
  - (c) the person to whom the supply is made is—
    - (i) an employee of the taxable person,
    - (ii) a person who, under the terms of his employment, provides services to the taxable person, or
    - (iii) a relative of a person falling within sub-paragraph (i) or (ii) above,
  - (d) the supply is a supply of services by virtue of sub-paragraph (4) of paragraph 5 of Schedule 4 (business goods put to private use etc),
  - (e) the goods mentioned in that sub-paragraph consist of a motor car (whether or not any particular motor car) that forms part of the stock in trade of the taxable person, and
  - (f) the supply is not one to which paragraph 1 above applies,
- the Commissioners may direct that the value of the supply shall be taken to be its open market value.
- (2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.
- (3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply—
- (a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and
  - (b) as to which the conditions in paragraphs (a) to (f) of sub-paragraph (1) above are satisfied,
- shall be taken to be its open market value.
- (4) In this paragraph—

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“motor car” means any motor vehicle of a kind normally used on public roads which has three or more wheels and either—

- (a) is constructed or adapted solely or mainly for the carriage of passengers, or
- (b) has to the rear of the driver’s seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows,

but does not include any vehicle excluded by sub-paragraph (5) below;

“motor dealer” means a person whose business consists in whole or in part of obtaining supplies of, <sup>F1035</sup>... or importing, new or second-hand motor cars for resale with a view to making an overall profit on the sale of them (whether or not a profit is made on each sale);

“motor manufacturer” means a person whose business consists in whole or in part of producing motor cars including producing motor cars by conversion of a vehicle (whether a motor car or not);

“relative” means husband, wife, brother, sister, ancestor or lineal descendant;

“stock in trade” means new or second-hand motor cars (other than second-hand motor cars which are not qualifying motor cars within sub-paragraph (6) below) which are—

- (a) [<sup>F1036</sup>produced by a motor manufacturer, or supplied to or imported by a motor dealer, for the purpose of resale, and
- (b) intended to be sold within 12 months of their production, supply or importation (as the case may require).]

and such motor cars shall not cease to be stock in trade where they are temporarily put to a use in the motor manufacturer’s or, as the case may be, the motor dealer’s business which involves making them available for private use.

(5) The vehicles excluded by this sub-paragraph are—

- (a) vehicles capable of accommodating only one person;
- (b) vehicles which meet the requirements of Schedule 6 to the Road Vehicles (Construction and Use) Regulations 1986 and are capable of carrying twelve or more seated persons;
- (c) vehicles of not less than three tonnes unladen weight (as defined in the Table to regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986);
- (d) vehicles constructed to carry a payload (the difference between—
  - (i) a vehicle’s kerb weight (as defined in the Table to regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986), and
  - (ii) its maximum gross weight (as defined in that Table)),
 of one tonne or more;
- (e) caravans, ambulances and prison vans;
- (f) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.

(6) For the purposes of this paragraph a motor car is a “qualifying motor car” if—

*Status: Point in time view as at 26/07/2021.*

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- (a) it has never been supplied<sup>F1037</sup> ... or imported in circumstances in which the VAT on that supply<sup>F1038</sup> ... or importation was wholly excluded from credit as input tax by virtue of an order under section 25(7) (as at 17th March 2004 see article 7 of the Value Added Tax (Input Tax) Order 1992); or
- (b) a taxable person has elected under such an order for it to be treated as such.

(7) The Treasury may by order amend any of the definitions in this paragraph.]

#### Textual Amendments

**F1034**Sch. 6 para. 1A inserted (1.1.2005 with effect in accordance with s. 22(5) of the amending Act) by Finance Act 2004 (c. 12), s. 22(2); S.I. 2004/3104, art. 2; S.I. 2004/3104, art. 2

**F1035**Words in Sch. 6 para. 1A(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 91(2)(a)(i) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1036**Words in Sch. 6 para. 1A(4) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 91(2)(a)(ii) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1037**Words in Sch. 6 para. 1A(6)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 91(2)(b)(i) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1038**Word in Sch. 6 para. 1A(6)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 91(2)(b)(ii) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

2 Where—

- (a) the whole or part of a business carried on by a taxable person consists in supplying to a number of persons goods to be sold, whether by them or others, by retail, and
- (b) those persons are not taxable persons,

the Commissioners may by notice in writing to the taxable person direct that the value of any such supply by him after the giving of the notice or after such later date as may be specified in the notice shall be taken to be its open market value on a sale by retail.

[<sup>F1039</sup>2(1) This paragraph applies if—

- (a) a taxable person (“P”) makes a supply of road fuel for a consideration,
- (b) the recipient of the supply is—
  - (i) connected with P, or
  - (ii) an employee or partner of P or a person who is connected with such an employee or partner,
- (c) the value of the supply would (in the absence of this paragraph) be less than its open market value, and
- (d) the recipient of the supply is not entitled to credit for the whole of the input tax arising on the supply.

(2) The value of the supply is to be taken to be an amount equal to its open market value.

*Status: Point in time view as at 26/07/2021.*

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- (3) For the purposes of this paragraph—
- (a) “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been or is required to be paid in accordance with that Act, and
  - (b) any question whether a person is connected with another is to be determined in accordance with section 1122 of the Corporation Tax Act 2010.
- (4) The Treasury may, by order, amend the definition of “road fuel” in sub-paragraph (3) (a).]

#### Textual Amendments

**F1039** Sch. 6 para. 2A inserted (retrospective and with effect in accordance with Sch. 38 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 paras. 6, 8](#)

- 3 (1) Where—
- (a) any goods whose supply involves their removal to the United Kingdom—
    - (i) are charged in connection with their removal to the United Kingdom with a duty of excise; or
    - (ii) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the [<sup>F93</sup>European Union], to any <sup>F1040</sup>... agricultural levy of the [<sup>F93</sup>European Union]; or
  - (b) the time of supply of any dutiable goods, or of any goods which comprise a mixture of dutiable goods and other goods, is determined under section 18(4) to be the duty point,
- then the value of the supply shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty or, as the case may be, agricultural levy which has been or is to be paid in respect of the goods.
- (2) In this paragraph “dutiable goods” and “duty point” have the same meanings as in section 18.

#### Textual Amendments

**F93** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))

**F1040** Words in Sch. 6 para. 3(1)(a)(ii) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 91\(3\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- [<sup>F1041</sup>4 (1) Sub-paragraph (2) applies where—
- (a) goods or services are supplied for a consideration which is a price in money,
  - (b) the terms on which those goods or services are so supplied allow a discount for prompt payment of that price,
  - (c) payment of that price is not made by instalments, and
  - (d) payment of that price is made in accordance with those terms so that the discount is realised in relation to that payment.

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- (2) For the purposes of section 19 (value of supply of goods or services) the consideration is the discounted price paid.]

**Textual Amendments**

**F1041**Sch. 6 para. 4 substituted (with effect in accordance with s. 108(2)-(4) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **s. 108(1)**

**F1042**5 . . . . .

**Textual Amendments**

**F1042**Sch. 6 para. 5 repealed (with application in accordance with Sch. 1 para. 4 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 1 para. 3](#), **Sch. 43 Pt. 2**

- 6 (1) Where there is a supply of goods by virtue of—
- (a) a Treasury order under section 5(5); or
  - (b) paragraph 5(1) or 6 of Schedule 4 but otherwise than for a consideration); or
  - (c) paragraph 8 of that Schedule; <sup>F1043</sup>...
  - <sup>F1043</sup>(d) . . . . .

then, except where [<sup>F1044</sup>the person making the supply opts under paragraph A1(3) above for valuation on the flat-rate basis or] paragraph 10 below applies, the value of the supply shall be determined as follows.

- (2) The value of the supply shall be taken to be—
- (a) such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
  - (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by that person if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
  - (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they were produced at that time.
- (3) For the purposes of sub-paragraph (2) above the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

**Textual Amendments**

**F1043**Sch. 6 para. 6(1)(d) and word omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), **Sch. 2 para. 7(4)** (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

**F1044**Words in Sch. 6 para. 6(1) inserted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **Sch. 38 para. 3**

7<sup>F1045</sup>(1)] Where there is a supply of services by virtue of—

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- (a) a Treasury order under section 5(4); or
  - (b) [<sup>F1046</sup>paragraph 5(4)] of Schedule 4 (but otherwise than for a consideration), the value of the supply shall be taken to be the full cost to the taxable person of providing the services except where paragraph 10 below applies.
- [<sup>F1047</sup>(2) Regulations may, in relation to a supply of services by virtue of paragraph 5(4) of Schedule 4 (but otherwise than for a consideration), make provision for determining how the full cost to the taxable person of providing the services is to be calculated.
- (3) The regulations may, in particular, make provision for the calculation to be made by reference to any prescribed period.
  - (4) The regulations may make—
    - (a) different provision for different circumstances;
    - (b) such incidental, supplementary, consequential or transitional provision as the Commissioners think fit.]

#### Textual Amendments

**F1045**Sch. 6 para. 7 renumbered as Sch. 6 para. 7(1) (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 99\(5\)](#)

**F1046**Words in Sch. 6 para. 7(b) substituted (retrospectively) by [1995 c. 4, s. 33\(3\)\(b\)](#)

**F1047**Sch. 6 para. 7(2)-(4) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 99\(5\)](#)

- 8 Where any supply of services is treated by virtue of section 8 [<sup>F1048</sup>, or any supply of goods is treated by virtue of section 9A,] as made by the person by whom they are received, the value of the supply shall be taken—
- (a) in a case where the consideration for which the services [<sup>F1049</sup>or goods] were in fact supplied to him was a consideration in money, to be such amount as is equal to that consideration; and
  - (b) in a case where that consideration did not consist or not wholly consist of money, to be such amount in money as is equivalent to that consideration.

#### Textual Amendments

**F1048**Words in Sch. 6 para. 8 inserted (with effect in accordance with s. 5(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 5\(1\)\(a\)](#)

**F1049**Words in Sch. 6 para. 8 inserted (with effect in accordance with s. 5(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 5\(1\)\(b\)](#)

#### Modifications etc. (not altering text)

**C98** Sch. 6 para. 8 modified (30.6.1997) by [S.I. 1997/1523, arts. 7, 8](#)

- [<sup>F1050</sup>8(1) This paragraph applies where—
- (a) a supply (“the intra-group supply”) made by a member of a group (“the supplier”) to another member of the group is, by virtue of section 43(2A), excluded from the supplies disregarded under section 43(1)(a), and
  - (b) the representative member of the group satisfies the Commissioners as to the value of each bought-in supply.



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- (2) “Bought-in supply”, in relation to the intra-group supply, means a supply of services to the supplier to which section 43(2A)(c) to (e) refers, so far as that supply is used by the supplier for making the intra-group supply.
- (3) The value of the intra-group supply shall be taken to be the total of the relevant amounts in relation to the bought-in supplies.
- (4) The relevant amount in relation to a bought-in supply is the value of the bought-in supply, unless a direction is made under sub-paragraph (5).
- (5) If the value of a bought-in supply is less than its open market value, the Commissioners may direct that the relevant amount in relation to that supply is its open market value.
- (6) A direction under this paragraph must be given by notice in writing to the representative member, but no direction may be given more than 3 years after the time of the intra-group supply.
- (7) The Treasury may by order vary the provision made by this Schedule about the value of supplies of the kind mentioned in sub-paragraph (1)(a).
- (8) An order under sub-paragraph (7) may include incidental, supplemental, consequential or transitional provision (including provision amending section 43 or 83).]

#### Textual Amendments

**F1050**Sch. 6 para. 8A inserted (with effect in accordance with s. 200(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 200\(7\)](#)

- 9 (1) This paragraph applies where a supply of services consists in the provision of accommodation falling within paragraph (d) of Item 1 of Group 1 in Schedule 9 and—
  - (a) that provision is made to an individual for a period exceeding 4 weeks; and
  - (b) throughout that period the accommodation is provided for the use of the individual either alone or together with one or more other persons who occupy the accommodation with him otherwise than at their own expense (whether incurred directly or indirectly).
- (2) Where this paragraph applies—
  - (a) the value of so much of the supply as is in excess of 4 weeks shall be taken to be reduced to such part thereof as is attributable to facilities other than the right to occupy the accommodation; and
  - (b) that part shall be taken to be not less than 20 per cent.
- 10 (1) This paragraph applies to a supply of goods or services, whether or not for a consideration, which is made by an employer and consists of—
  - (a) the provision in the course of catering of food or beverages to his employees, or
  - (b) the provision of accommodation for his employees in a hotel, inn, boarding house or similar establishment.

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- (2) The value of a supply to which this paragraph applies shall be taken to be nil unless the supply is for a consideration consisting wholly or partly of money, and in that case its value shall be determined without regard to any consideration other than money.
- 11 (1) Subject to the following provisions of this paragraph, where—
- (a) there is a supply of goods or services; and
  - (b) any sum relevant for determining the value of the supply is expressed in a currency other than sterling,
- then, for the purpose of valuing the supply, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling by the person to whom they are supplied of that sum in the currency in question.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange; or
  - (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any supply by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that supply.
- (3) An option for the purposes of sub-paragraph (2) above for the use of a particular rate or method of determining a rate—
- (a) shall not be exercised by any person except in relation to all such supplies by him as are of a particular description or after a particular date; and
  - (b) shall not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange a notice published by the Commissioners under sub-paragraph (2) above may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of his supplies, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4) above, the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such supplies and subject to such conditions as they think fit.
- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
- (7) The time by reference to which the appropriate rate of exchange is to be determined for the purpose of valuing any supply is the time when the supply takes place; and, accordingly, the day on which it takes place is the relevant day for the purposes of sub-paragraph (1) above.
- [<sup>F1051</sup>11(A)] Sub-paragraph (2) applies to goods that—
- (a) fall within subsection (5) of section 21 (works of art etc), and
  - (b) are treated as supplied in the United Kingdom as a result of section 7(5B) (importation of consignments with an intrinsic value not exceeding £135).

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- (2) The value of a supply of goods to which this sub-paragraph applies is to be taken to be an amount equal to 25% of the amount that, apart from this sub-paragraph, would be its value for the purposes of this Act.
- (3) An order under section 2(2) may contain provision making such alteration of the percentage for the time being specified in sub-paragraph (2) as the Treasury consider appropriate in consequence of any increase or decrease by that order of the rate of VAT.]

**Textual Amendments**

**F1051** Sch. 6 para. 11A inserted (with effect in accordance with s. 97(2) of the amending Act) by Finance Act 2021 (c. 26), s. 97(1)

- 12 Regulations may require that in prescribed circumstances there is to be taken into account, as constituting part of the consideration for the purposes of section 19(2) (where it would not otherwise be so taken into account), money paid in respect of the supply by persons other than those to whom the supply is made.
- 13 A direction under paragraph 1 or 2 above may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

**F1052** SCHEDULE 7

VALUATION OF ACQUISITIONS FROM OTHER MEMBER STATES: SPECIAL CASES

**Textual Amendments**

**F1052** Sch. 7 omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 92 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 1<sup>F1052</sup> .....
- 2<sup>F1052</sup> .....
- 3<sup>F1052</sup> .....
- 4<sup>F1052</sup> .....
- 5<sup>F1052</sup> .....

*Status: Point in time view as at 26/07/2021.*

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## F1053 SCHEDULE 7A

### CHARGE AT REDUCED RATE

#### Textual Amendments

**F1053** Sch. 7A inserted (11.5.2001 with effect as mentioned in s. 99(7)(a) of the amending Act) by 2001 c. 9, s. 99(5)(7)(a), **Sch. 31 Pt. 1 para. 1**

### PART 1

#### INDEX TO REDUCED-RATE SUPPLIES OF GOODS AND SERVICES

#### Modifications etc. (not altering text)

**C99** Sch. 7A Pt. 1 modifications by S.I. 2020/728, **art. 3** continued (with effect in accordance with s. 93(5)-(10) of the amending Act) by Finance Act 2021 (c. 26), **s. 93(1)**

[ <sup>F1054</sup> Cable-suspended passenger transport systems	Group 13]
[ <sup>F1055</sup> Caravans	Group 12]
Children's car seats.....	Group 5
[ <sup>F1056</sup> Contraceptive products	Group 8]
[ <sup>F1057</sup> Course of catering	Group 14 ]
Domestic fuel or power.....	Group 1
Energy-saving materials: installation.....	Group 2
Heating equipment, security goods and gas supplies: grant-funded installation or connection.....	Group 3
[ <sup>F1057</sup> Holiday accommodation etc	Group 15 ]
[ <sup>F1058</sup> Installation of mobility aids for the elderly	Group 10]
Renovation and alteration of dwellings.....	Group 7
Residential conversions.....	Group 6
[ <sup>F1057</sup> Shows and certain other attractions	Group 16 ]
[ <sup>F1059</sup> Smoking cessation products	Group 11]
[ <sup>F1060</sup> Welfare advice or information	Group 9]
F1061	F1061

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...

...

#### Textual Amendments

- F1054** Words in Sch. 7A Pt. 1 inserted (1.4.2013) by [The Value Added Tax \(Reduced Rate\) \(Cable-Suspended Passenger Transport Systems\) Order 2013 \(S.I. 2013/430\)](#), arts. 1, **2(2)**
- F1055** Words in Sch. 7A Pt. 1 inserted (6.4.2013) by [Finance Act 2012 \(c. 14\)](#), **Sch. 26 paras. 6(2), 7(2)**
- F1056** Words in Sch. 7A Pt. 1 inserted (1.7.2006) by [The Value Added Tax \(Reduced Rate\) Order 2006 \(S.I. 2006/1472\)](#), arts. 1, **3(a)**
- F1057** Words in Sch. 7A Pt. 1 inserted (temp.) (15.7.2020) by virtue of [The Value Added Tax \(Reduced Rate\) \(Hospitality and Tourism\) \(Coronavirus\) Order 2020 \(S.I. 2020/728\)](#), arts. 1, **3** (with art. 2)
- F1058** Words in Sch. 7A Pt. 1 inserted (1.7.2007 with effect in relation to supplies made on or after that date) by [The Value Added Tax \(Reduced Rate\) Order 2007 \(S.I. 2007/1601\)](#), arts. 1(1)(2), **3(a)**
- F1059** Words in Sch. 7A Pt. 1 inserted (1.7.2007 with effect in relation to supplies made on or after that date but before 1.7.2008) by [The Value Added Tax \(Reduced Rate\) Order 2007 \(S.I. 2007/1601\)](#), arts. 1(1)(2), **3(b)**
- F1060** Words in Sch. 7A Pt. 1 inserted (1.7.2006) by [The Value Added Tax \(Reduced Rate\) Order 2006 \(S.I. 2006/1472\)](#), arts. 1, **3(b)**
- F1061** Words in Sch. 7A Pt. 1 omitted (with effect in accordance with s. 126(5)(6) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), s. **126(2)(a)**

## PART 2

### THE GROUPS

#### Modifications etc. (not altering text)

- C100** Sch. 7A Pt. 2 modified (30.6.2008) by [The Value Added Tax \(Reduced Rate\) \(Smoking Cessation Products\) Order 2008 \(S.I. 2008/1410\)](#), arts. 13
- C101** Sch. 7A Pt. 2 modifications by 2020 SI 728, art. 4 continued (with effect in accordance with s. 93(5)-(10) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), s. **93(1)**

### GROUP 1 — SUPPLIES OF DOMESTIC FUEL OR POWER

#### ITEM NO.

- 1 Supplies for qualifying use of—
- (a) coal, coke or other solid substances held out for sale solely as fuel;
  - (b) coal gas, water gas, producer gases or similar gases;
  - (c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;
  - (d) fuel oil, gas oil or kerosene; or
  - (e) electricity, heat or air-conditioning.

NOTES:

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*Matters included or not included in the supplies*

- 1 (1) Item 1(a) shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
- (2) Item 1(b) and (c) shall not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1979 (c. 5)) on which a duty of excise has been charged or is chargeable.
- (3) Item 1(d) shall not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979 <sup>F1062</sup>, unless the oil is—
  - (a) kerosene in respect of which a relevant declaration has been made under section 13AC(3) of that Act (use of rebated kerosene for private pleasure-flying); or
  - (b) oil in respect of which a relevant declaration has been made under section 14E(3) of that Act (use of rebated heavy oil for private pleasure craft)].

**Textual Amendments**

**F1062** Words in Sch. 7A Pt. 2 Group 1 Note 1(3) inserted (1.11.2008) by [The Value Added Tax \(Reduced Rate\) \(Supplies of Domestic Fuel or Power\) Order 2008 \(S.I. 2008/2676\)](#), arts. 1, 2

*Meaning of “fuel oil”, “gas oil” and “kerosene”*

- 2 (1) In this Group “fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.
- (2) In this Group “gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.
- (3) In this Group “kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.
- (4) In this paragraph “heavy oil” has the same meaning as in the Hydrocarbon Oil Duties Act 1979.

*Meaning of “qualifying use”*

- 3 In this Group “qualifying use” means—
  - (a) domestic use; or
  - (b) use by a charity otherwise than in the course or furtherance of a business.

*Supplies only partly for qualifying use*

- 4 For the purposes of this Group, where there is a supply of goods partly for qualifying use and partly not—
  - (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.

*Supplies deemed to be for domestic use*

- 5 For the purposes of this Group the following supplies are always for domestic use—
- (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
  - (b) a supply of wood, peat or charcoal not intended for sale by the recipient;
  - (c) a supply to a person at any premises of piped gas (that is, gas within item 1(b), or petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;
  - (d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;
  - (e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;
  - (f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;
  - (g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.

*Other supplies that are for domestic use*

- 6 For the purposes of this Group supplies not within paragraph 5 are for domestic use if and only if the goods supplied are for use in—
- (a) a building, or part of a building, that consists of a dwelling or number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) self-catering holiday accommodation;
  - (d) a caravan; or
  - (e) a houseboat.

*Interpretation of paragraph 6*

- 7 (1) For the purposes of this Group, “use for a relevant residential purpose” means use as—
- (a) a home or other institution providing residential accommodation for children,
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (c) a hospice,

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- (d) residential accommodation for students or school pupils,
- (e) residential accommodation for members of any of the armed forces,
- (f) a monastery, nunnery or similar establishment, or
- (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.

- (2) For the purposes of this Group “self-catering holiday accommodation” includes any accommodation advertised or held out as such.
- (3) In paragraph 6 “houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.

## GROUP 2 — INSTALLATION OF ENERGY-SAVING MATERIALS

- [<sup>F1063</sup>1 The supply of services of installing energy-saving materials in residential accommodation, where the energy-saving materials are not supplied by the person supplying the services.

### Textual Amendments

**F1063**Sch. 7A Pt. 2 Group 2 Items 1-3 substituted for Items 1, 2 (1.10.2019) by [The Value Added Tax \(Reduced Rate\) \(Energy-Saving Materials\) Order 2019 \(S.I. 2019/958\)](#), arts. 1(1), 3 (with art. 1(2))

- 2. The supply of services of installing energy-saving materials in residential accommodation, including the energy-saving materials installed, where—
  - (a) the supply is made to a qualifying person and the residential accommodation is the qualifying person’s sole or main residence,
  - (b) the supply is made to a relevant housing association, or
  - (c) the residential accommodation is a building, or part of a building, used solely for a relevant residential purpose.

### Textual Amendments

**F1063**Sch. 7A Pt. 2 Group 2 Items 1-3 substituted for Items 1, 2 (1.10.2019) by [The Value Added Tax \(Reduced Rate\) \(Energy-Saving Materials\) Order 2019 \(S.I. 2019/958\)](#), arts. 1(1), 3 (with art. 1(2))

- 3. The supply, in a case not falling within item 2, of services of installing energy-saving materials in residential accommodation, including the energy-saving materials installed (but see Note A1).]

### Textual Amendments

**F1063**Sch. 7A Pt. 2 Group 2 Items 1-3 substituted for Items 1, 2 (1.10.2019) by [The Value Added Tax \(Reduced Rate\) \(Energy-Saving Materials\) Order 2019 \(S.I. 2019/958\)](#), arts. 1(1), 3 (with art. 1(2))

NOTES:



*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Restriction on item 3*

- [<sup>F1064</sup>A(1) Item 3 does not apply to a supply so far as relating to the energy-saving materials installed if the open market value of the supply of the materials exceeds 60% of the cost of the total supply to the person to whom it is made.
- (2) In this Note, the reference to cost is to cost net of VAT.]

**Textual Amendments**

**F1064**Sch. 7A Pt. 2 Group 2 Note A1 inserted (1.10.2019) by [The Value Added Tax \(Reduced Rate\) \(Energy-Saving Materials\) Order 2019 \(S.I. 2019/958\)](#), arts. 1(1), 4 (with art. 1(2))

*Meaning of “energy-saving materials”*

- 1 For the purposes of this Group “energy-saving materials” means any of the following—
- (a) insulation for walls, floors, ceilings, roofs or lofts or for water tanks, pipes or other plumbing fittings;
  - (b) draught stripping for windows and doors;
  - (c) central heating system controls (including thermostatic radiator valves);
  - (d) hot water system controls;
  - (e) solar panels;
  - <sup>F1065</sup>(f) .....
  - <sup>F1065</sup>(g) .....
  - [<sup>F1066</sup>(h) ground source heat pumps;]
  - [<sup>F1067</sup>(i) micro combined heat and power units. air source heat pumps;
  - (j) micro combined heat and power units;]
  - [<sup>F1068</sup>(k) boilers designed to be fuelled solely by wood, straw or similar vegetal matter.]

**Textual Amendments**

**F1065**Sch. 7A Pt. 2 Group 2 Note 1(f)(g) omitted (1.10.2019) by virtue of [The Value Added Tax \(Reduced Rate\) \(Energy-Saving Materials\) Order 2019 \(S.I. 2019/958\)](#), arts. 1(1), 5 (with art. 1(2))

**F1066**Sch. 7A Pt. 2 Group 2 Note 1(h) inserted (1.6.2004) by [The Value Added Tax \(Reduced Rate\) Order 2004 \(S.I. 2004/777\)](#), arts. 1, 3

**F1067**Sch. 7A Pt. 2 Group 2 Note 1(i)(j) inserted (7.4.2005) by [The Value Added Tax \(Reduced Rate\) Order 2005 \(S.I. 2005/726\)](#), arts. 1, 3

**F1068**Sch. 7A Pt. 2 Group 2 Note 1(k) inserted (1.1.2006) by [The Value Added Tax \(Reduced Rate\) \(No. 2\) Order 2005 \(S.I. 2005/3329\)](#), arts. 1, 3

*Meaning of “residential accommodation”*

- 2 (1) For the purposes of this Group “residential accommodation” means—
- (a) a building, or part of a building, that consists of a dwelling or a number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) a caravan used as a place of permanent habitation; or

*Status: Point in time view as at 26/07/2021.*

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- (d) a houseboat.
- (2) For the purposes of this Group “use for a relevant residential purpose” has the same meaning as it has for the purposes of Group 1 (see paragraph 7(1) of the Notes to that Group).
- (3) In sub-paragraph (1)(d) “houseboat” has the meaning given by paragraph 7(3) of the Notes to Group 1.

*Meaning of “use for a relevant charitable purpose”*

F1069 3 . . . . .

**Textual Amendments**  
**F1069**Sch. 7A Pt. 2 Group 2 Note 3 omitted (with effect in accordance with s. 193(4) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), **s. 193(3)**

*Meaning of “qualifying person”*

[<sup>F1070</sup>4. For the purposes of this Group “qualifying person” has the same meaning as it has for the purposes of Group 3 (see paragraph 6 of the Notes to that Group).

**Textual Amendments**  
**F1070**Sch. 7A Pt. 2 Group 2 Notes 4, 5 inserted (1.10.2019) by [The Value Added Tax \(Reduced Rate\) \(Energy-Saving Materials\) Order 2019 \(S.I. 2019/958\)](#), arts. 1(1), **6** (with art. 1(2))

*Meaning of “relevant housing association”*

5. For the purposes of this Group “relevant housing association” has the meaning given by Note (21) of Group 5 of Schedule 8 (zero-rating: construction of buildings etc.).]

**Textual Amendments**  
**F1070**Sch. 7A Pt. 2 Group 2 Notes 4, 5 inserted (1.10.2019) by [The Value Added Tax \(Reduced Rate\) \(Energy-Saving Materials\) Order 2019 \(S.I. 2019/958\)](#), arts. 1(1), **6** (with art. 1(2))

**GROUP 3 — GRANT-FUNDED INSTALLATION OF HEATING EQUIPMENT OR SECURITY GOODS OR CONNECTION OF GAS SUPPLY**

ITEM NO.

- 1 Supplies to a qualifying person of any services of installing heating appliances in the qualifying person’s sole or main residence.
- 2 Supplies of heating appliances made to a qualifying person by a person who installs those appliances in the qualifying person’s sole or main residence.

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 3 Supplies to a qualifying person of services of connecting, or reconnecting, a mains gas supply to the qualifying person's sole or main residence.
  - 4 Supplies of goods made to a qualifying person by a person connecting, or reconnecting, a mains gas supply to the qualifying person's sole or main residence, being goods whose installation is necessary for the connection, or reconnection, of the mains gas supply.
  - 5 Supplies to a qualifying person of services of installing, maintaining or repairing a central heating system in the qualifying person's sole or main residence.
  - 6 Supplies of goods made to a qualifying person by a person installing, maintaining or repairing a central heating system in the qualifying person's sole or main residence, being goods whose installation is necessary for the installation, maintenance or repair of the central heating system.
  - 7 Supplies consisting in the leasing of goods that form the whole or part of a central heating system installed in the sole or main residence of a qualifying person.
  - 8 Supplies of goods that form the whole or part of a central heating system installed in a qualifying person's sole or main residence and that, immediately before being supplied, were goods leased under arrangements such that the consideration for the supplies consisting in the leasing of the goods was, in whole or in part, funded by a grant made under a relevant scheme.
- [<sup>F1071</sup>8A Supplies to a qualifying person of services of installing, maintaining or repairing a renewable source heating system in the qualifying person's sole or main residence.

**Textual Amendments**

**F1071**Sch. 7A Pt. II Group 3 Item 8A, 8B inserted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), **art. 3(a)**

- 8B Supplies of goods made to a qualifying person by a person installing, maintaining or repairing a renewable source heating system in the qualifying person's sole or main residence, being goods whose installation is necessary for the installation, maintenance or repair of the system.]

**Textual Amendments**

**F1071**Sch. 7A Pt. II Group 3 Item 8A, 8B inserted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), **art. 3(a)**

- 9 Supplies to a qualifying person of services of installing qualifying security goods in the qualifying person's sole or main residence.
- 10 Supplies of qualifying security goods made to a qualifying person by a person who installs those goods in the qualifying person's sole or main residence.

NOTES:

*Supply only included so far as grant-funded*

- 1 (1) Each of [<sup>F1072</sup>items 1 to 7 and 8A to 10] applies to a supply only to the extent that the consideration for the supply is, or is to be, funded by a grant made under a relevant scheme.

*Status: Point in time view as at 26/07/2021.*

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- (2) Item 8 applies to a supply only to the extent that the consideration for the supply—
- (a) is, or is to be, funded by a grant made under a relevant scheme; or
  - (b) is a payment becoming due only by reason of the termination (whether by the passage of time or otherwise) of the leasing of the goods in question.

#### Textual Amendments

**F1072** Words in Sch. 7A Pt. II Group 3 Note 1(1) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), **art. 3(b)**

#### Meaning of “relevant scheme”

- 2 (1) For the purposes of this Group a scheme is a “relevant scheme” if it is one which satisfies the conditions specified in this paragraph.
- (2) The first condition is that the scheme has as one of its objectives the funding of the installation of energy-saving materials in the homes of any persons who are qualifying persons.
- (3) The second condition is that the scheme disburses, whether directly or indirectly, its grants in whole or in part out of funds made available to it in order to achieve that objective—
- (a) by the Secretary of State,
  - (b) by the Scottish Ministers,
  - (c) by the National Assembly for Wales,
  - (d) by a Minister (within the meaning given by section 7(3) of the Northern Ireland Act 1998 (c. 47)) or a Northern Ireland department,
  - <sup>F1073</sup>(e) .....
  - (f) under an arrangement approved by the Gas and Electricity Markets Authority,
  - (g) under an arrangement approved by the Director General of Electricity Supply for Northern Ireland, or
  - (h) by a local authority.
- (4) The reference in sub-paragraph (3)(f) to an arrangement approved by the Gas and Electricity Markets Authority includes a reference to an arrangement approved by the Director General of Electricity Supply, or the Director General of Gas Supply, before the transfer (under the Utilities Act 2000 (c. 27)) of his functions to the Authority.

#### Textual Amendments

**F1073** Words in [Sch. 7A](#) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 93](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

#### Apportionment of grants that also cover other supplies

- 3 Where a grant is made under a relevant scheme in order—

*Status: Point in time view as at 26/07/2021.*

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- (a) to fund a supply of a description to which any of items 1 to 10 applies (“the relevant supply”), and
- (b) also to fund a supply to which none of those items applies (“the non-relevant supply”),

the proportion of the grant that is to be attributed, for the purposes of paragraph 1, to the relevant supply shall be the same proportion as the consideration reasonably attributable to that supply bears to the consideration for that supply and for the non-relevant supply.

#### *Meaning of “heating appliances”*

- 4 For the purposes of items 1 and 2 “heating appliances” means any of the following—
- (a) gas-fired room heaters that are fitted with thermostatic controls;
  - (b) electric storage heaters;
  - (c) closed solid fuel fire cassettes;
  - (d) electric dual immersion water heaters with [<sup>F1074</sup>factory-insulated] hot water tanks;
  - (e) gas-fired boilers;
  - (f) oil-fired boilers;
  - (g) radiators.

#### **Textual Amendments**

**F1074** Words in Sch. 7A Pt. II Group 3 Note 4(d) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 3\(c\)](#)

#### *Meaning of “central heating system”*

- [<sup>F1075</sup>4A For the purposes of items 5 to 8 “central heating system” includes a system which generates electricity.

#### **Textual Amendments**

**F1075** Sch. 7A Pt. II Group 3 Note 4A, 4B substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 3\(d\)](#)

#### *Meaning of “renewable source heating system”*

- 4B For the purposes of items 8A and 8B “renewable source heating system” means a space or water heating system which uses energy from—
- (a) renewable sources, including solar, wind and hydroelectric power, or
  - (b) near renewable resources, including ground and air heat.]

#### **Textual Amendments**

**F1075** Sch. 7A Pt. II Group 3 Note 4A, 4B substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 3\(d\)](#)

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### Meaning of “qualifying security goods”

- 5 For the purposes of items 9 and 10 “qualifying security goods” means any of the following—
- (a) locks or bolts for windows;
  - (b) locks, bolts or security chains for doors;
  - (c) spy holes;
  - (d) smoke alarms.

### Meaning of “qualifying person”

- 6 (1) For the purposes of this Group, a person to whom a supply is made is “a qualifying person” if at the time of the supply he—
- (a) is aged 60 or over; or
  - (b) is in receipt of one or more of the benefits mentioned in sub-paragraph (2).
- (2) Those benefits are—
- (a) council tax benefit under Part 7 of the Contributions and Benefits Act;
  - (b) disability living allowance under Part 3 of the Contributions and Benefits Act or Part 3 of the Northern Ireland Act;
  - (c) [<sup>F1076</sup>any element of child tax credit other than the family element, working tax credit,] housing benefit or income support under Part 7 of the Contributions and Benefits Act or Part 7 of the Northern Ireland Act;
  - (d) an income-based jobseeker’s allowance within the meaning of section 1(4) of the Jobseekers Act 1995 (c. 18) or Article 3(4) of the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/275 (N.I. 15));
  - (e) disablement pension under Part 5 of the Contributions and Benefits Act, or Part 5 of the Northern Ireland Act, that is payable at the increased rate provided for under section 104 (constant attendance allowance) of the Act concerned;
  - (f) war disablement pension under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883) that is payable at the increased rate provided for under article 14 (constant attendance allowance) or article 26A (mobility supplement) of that Order.
  - [<sup>F1077</sup>(g) personal independence payment under Part 4 of the Welfare Reform Act 2012 or the corresponding provision having effect in Northern Ireland;
  - (h) armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004.]
  - [<sup>F1078</sup>(i) universal credit under Part 1 of the Welfare Reform Act 2012 [<sup>F1079</sup>or Part 2 of the Welfare Reform (Northern Ireland) Order 2015].]
- (3) In sub-paragraph (2)—
- (a) “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992 (c. 4); and
  - (b) “the Northern Ireland Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

#### Textual Amendments

**F1076** Words in Sch. 7A Pt. II Group 3 para. 6(2)(c) substituted (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 3 para. 48](#); [S.I. 2003/962](#), art. 2(3)(d)(iii)

*Status: Point in time view as at 26/07/2021.*

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**F1077**Sch. 7A Pt. II Group 3 Note 6(2)(g)(h) inserted (8.4.2013) by [The Value Added Tax \(Independence Payment\) Order 2013 \(S.I. 2013/601\)](#), arts. 1, 2

**F1078**Sch. 7A Pt. II Group 3 Note 6(2)(i) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), 9(2)

**F1079**Words in Sch. 7A Pt. II Group 3 Note (6)(2)(i) inserted (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), **regs. 1(1), 5(2)**

#### GROUP 4 — WOMEN’S SANITARY PRODUCTS

**F1080**

##### Textual Amendments

**F1080**Sch. 7A Pt. 2 Group 4 omitted (with effect in accordance with s. 126(5)(6) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **s. 126(2)(b)**; S.I. 2020/1642, reg. 3

**F1080**

##### Textual Amendments

**F1080**Sch. 7A Pt. 2 Group 4 omitted (with effect in accordance with s. 126(5)(6) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), **s. 126(2)(b)**; S.I. 2020/1642, reg. 3

#### GROUP 5 — CHILDREN’S CAR SEATS

ITEM NO.

1 Supplies of children’s car seats.

NOTES:

*Meaning of “children’s car seats”*

1 (1) For the purposes of this Group, the following are “children’s car seats”—

- (a) a safety seat;
- [<sup>F1081</sup>(aa) a related base unit for a safety seat;]
- (b) the combination of a safety seat and a related wheeled framework;
- (c) a booster seat;
- (d) a booster cushion.

(2) In this Group “child” means a person aged under 14 years.

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F1081** Sch. 7A Pt. 2 Group 5 Note 1(1)(aa) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Reduced Rate\) \(Childrens Car Seats\) Order 2009 \(S.I. 2009/1359\)](#), arts 1(1), **3**

#### Meaning of “safety seat”

- 2 In this Group “safety seat” means a seat—
- (a) designed to be sat in by a child in a road vehicle,
  - [<sup>F1082</sup>(b) designed so that, when in use in a road vehicle, it can be restrained in one or more of the following ways—
    - (i) by a seat belt fitted in the vehicle, or
    - (ii) by belts, or anchorages, that form part of the seat being attached to the vehicle, or
    - (iii) by a related base unit, and]
  - (c) incorporating an integral harness, or integral impact shield, for restraining a child seated in it.

#### Textual Amendments

**F1082** Sch. 7A Pt. 2 Group 5 Note 2(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Reduced Rate\) \(Childrens Car Seats\) Order 2009 \(S.I. 2009/1359\)](#), arts. 1(1), **4**

#### Meaning of “related base unit”

- [<sup>F1083</sup>2A In this Group “related base unit” means a base unit which is designed solely for the purpose of attaching a safety seat securely in a road vehicle by means of anchorages that form part of the base unit and which, when in use in a road vehicle, can be restrained in one or more of the following ways—
- (a) by a seat belt fitted in the vehicle, or
  - (b) by permanent anchorage points in the vehicle, or
  - (c) by belts attached to permanent anchorage points in the vehicle.]

#### Textual Amendments

**F1083** Sch. 7A Pt. 2 Group 5 Note 2A inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Reduced Rate\) \(Childrens Car Seats\) Order 2009 \(S.I. 2009/1359\)](#), arts. 1(1), **5**

#### Meaning of “related wheeled framework”

- 3 For the purposes of this Group, a wheeled framework is “related” to a safety seat if the framework and the seat are each designed so that—
- (a) when the seat is not in use in a road vehicle it can be attached to the framework, and
  - (b) when the seat is so attached, the combination of the seat and the framework can be used as a child’s pushchair.



*Status: Point in time view as at 26/07/2021.*

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*Meaning of “booster seat”*

- 4 In this Group “booster seat” means a seat designed—
- (a) to be sat in by a child in a road vehicle, and
  - (b) so that, when in use in a road vehicle, it and a child seated in it can be restrained by a seat belt fitted in the vehicle.

*Meaning of “booster cushion”*

- 5 In this Group “booster cushion” means a cushion designed—
- (a) to be sat on by a child in a road vehicle, and
  - (b) so that a child seated on it can be restrained by a seat belt fitted in the vehicle

**GROUP 6 — RESIDENTIAL CONVERSIONS**

ITEM NO.

- 1 The supply, in the course of a qualifying conversion, of qualifying services related to the conversion.
- 2 The supply of building materials if—
- (a) the materials are supplied by a person who, in the course of a qualifying conversion, is supplying qualifying services related to the conversion, and
  - (b) those services include the incorporation of the materials in the building concerned or its immediate site.

NOTES:

*Supplies only partly within item 1*

- 1 (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.
- (2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.
- (3) An apportionment may be made to determine that extent.

*Meaning of “qualifying conversion”*

- 2 (1) A “qualifying conversion” means—
- (a) a changed number of dwellings conversion (see paragraph 3);
  - (b) a house in multiple occupation conversion (see paragraph 5); or
  - (c) a special residential conversion (see paragraph 7).
- (2) Sub-paragraph (1) is subject to paragraphs 9 and 10.

*Meaning of “changed number of dwellings conversion”*

- 3 (1) A “changed number of dwellings conversion” is—
- (a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) a conversion of premises consisting of a part of a building where those conditions are satisfied.
- (2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is—
  - (a) different from the number (if any) that the premises contain before the conversion, and
  - (b) greater than, or equal to, one.
- (3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.

*Meaning of “single household dwelling” and “multiple occupancy dwelling”*

- 4 (1) For the purposes of this Group “single household dwelling” means a dwelling—
- (a) that is designed for occupation by a single household, and
  - (b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.
- (2) For the purposes of this Group “multiple occupancy dwelling” means a dwelling—
- (a) that is designed for occupation by persons not forming a single household,  
F1084
  - [<sup>F1085</sup>(aa) that is not to any extent used for a relevant residential purpose, and]
  - (b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.
- (3) The conditions are—
- (a) that the dwelling consists of self-contained living accommodation,
  - (b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,
  - (c) that the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision, and
  - (d) that the separate disposal of the dwelling is not prohibited by any such terms.
- (4) For the purposes of this paragraph, a dwelling “is designed” for occupation of a particular kind if it is so designed—
- (a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or
  - (b) as a result of adaptation.

**Textual Amendments**

**F1084**Word in Sch. 7A Pt. 2 Group 6 Note 4(2)(a) omitted (1.6.2002) by virtue of [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(a\)\(i\)](#)

**F1085**Sch. 7A Pt. 2 Group 6 Note 4(2)(aa) inserted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(a\)\(ii\)](#)

*Meaning of “house in multiple occupation conversion”*

- 5 (1) A “house in multiple occupation conversion” is—

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) below is satisfied, or
  - (b) a conversion of premises consisting of a part of a building where that condition is satisfied.
- (2) The condition is that—
- <sup>F1086</sup>(a) before the conversion the premises being converted do not contain any multiple occupancy dwellings,
  - (b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and
  - (c) the use to which those premises are intended to be put after the conversion is not to any extent use for a relevant residential purpose.

#### Textual Amendments

**F1086**Sch. 7A Pt. 2 Group 6 Note 5(2)(a) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(b\)](#)

#### *Meaning of “use for a relevant residential purpose”*

- 6 For the purposes of this Group “use for a relevant residential purpose” means use as—
- (a) a home or other institution providing residential accommodation for children,
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (c) a hospice,
  - (d) residential accommodation for students or school pupils,
  - (e) residential accommodation for members of any of the armed forces,
  - (f) a monastery, nunnery or similar establishment, or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

#### *Meaning of “special residential conversion”*

- 7 (1) A “special residential conversion” is a conversion of premises consisting of—
- (a) a building or two or more buildings,
  - (b) a part of a building or two or more parts of buildings, or
  - (c) a combination of—
    - (i) a building or two or more buildings, and
    - (ii) a part of a building or two or more parts of buildings,where the conditions specified in this paragraph are satisfied.

- <sup>F1087</sup>(2) The first condition is that—

*Status: Point in time view as at 26/07/2021.*

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- (a) the use to which the premises being converted were last put before the conversion was not to any extent use for a relevant residential purpose, and
  - (b) those premises are intended to be used solely for a relevant residential purpose after the conversion.]
- (3) <sup>F1088</sup> .....
- (4) <sup>F1089</sup> .....
- (5) <sup>F1090</sup> .....
- (6) The [<sup>F1091</sup>second] condition is that, where the relevant residential purpose [<sup>F1092</sup>for which the premises are intended to be used] is an institutional purpose, the premises being converted must be intended to form after the conversion the entirety of an institution used for that purpose.
- (7) In sub-paragraph (6) “institutional purpose” means a purpose within paragraph 6(a) to (c), (f) or (g).

**Textual Amendments**

**F1087**Sch. 7A Pt. 2 Group 6 Note 7(2) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(c\)\(i\)](#)

**F1088**Sch. 7A Pt. 2 Group 6 Note 7(3) omitted (1.6.2002) by virtue of [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(c\)\(ii\)](#)

**F1089**Sch. 7A Pt. 2 Group 6 Note 7(4) omitted (1.6.2002) by virtue of [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(c\)\(ii\)](#)

**F1090**Sch. 7A Pt. 2 Group 6 Note 7(5) omitted (1.6.2002) by virtue of [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(c\)\(ii\)](#)

**F1091**Word in Sch. 7A Pt. 2 Group 6 Note 7(6) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(c\)\(iii\)\(a\)](#)

**F1092**Words in Sch. 7A Pt. 2 Group 6 Note 7(6) inserted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 4\(c\)\(iii\)\(b\)](#)

*Special residential conversions: reduced rate only for supplies made to intended user of converted accommodation*

- 8 (1) This paragraph applies where the qualifying conversion concerned is a special residential conversion.
- (2) Item 1 or 2 does not apply to a supply unless—
- (a) it is made to a person who intends to use the premises being converted for the relevant residential purpose, and
  - (b) before it is made, the person to whom it is made has given to the person making it a certificate that satisfies the requirements in sub-paragraph (3).
- (3) Those requirements are that the certificate—
- (a) is in such form as may be specified in a notice published by the Commissioners, and
  - (b) states that the conversion is a special residential conversion.

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) In sub-paragraph (2)(a) “the relevant residential purpose” means the purpose within paragraph 6 for which the premises being converted are intended to be used after the conversion.

*“Qualifying conversion” includes related garage works*

- 9 (1) A qualifying conversion includes any garage works related to the—
- (a) changed number of dwellings conversion,
  - (b) house in multiple occupation conversion, or
  - (c) special residential conversion,
- concerned.
- (2) In this paragraph “garage works” means—
- (a) the construction of a garage, or
  - (b) a conversion of a non-residential building, or of a non-residential part of a building, that results in a garage.
- (3) For the purposes of sub-paragraph (1), garage works are “related” to a conversion if—
- (a) they are carried out at the same time as the conversion, and
  - (b) the resulting garage is intended to be occupied with—
    - (i) where the conversion concerned is a changed number of dwellings conversion, a single household dwelling that will after the conversion be contained in the building, or part of a building, being converted,
    - (ii) where the conversion concerned is a house in multiple occupation conversion, a multiple occupancy dwelling that will after the conversion be contained in the building, or part of a building, being converted, or
    - (iii) where the conversion concerned is a special residential conversion, the institution or other accommodation resulting from the conversion.
- (4) In sub-paragraph (2) “non-residential” means neither designed, nor adapted, for use—
- (a) as a dwelling or two or more dwellings, or
  - (b) for a relevant residential purpose.

*Conversion not “qualifying” if planning consent and building control approval not obtained*

- 10 (1) A conversion is not a qualifying conversion if any statutory planning consent needed for the conversion has not been granted.
- (2) A conversion is not a qualifying conversion if any statutory building control approval needed for the conversion has not been granted.

*Meaning of “supply of qualifying services”*

- 11 (1) In the case of a conversion of a building, “supply of qualifying services” means a supply of services that consists in—
- (a) the carrying out of works to the fabric of the building, or

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- (b) the carrying out of works within the immediate site of the building that are in connection with—
  - (i) the means of providing water, power, heat or access to the building,
  - (ii) the means of providing drainage or security for the building, or
  - (iii) the provision of means of waste disposal for the building.
- (2) In the case of a conversion of part of a building, “supply of qualifying services” means a supply of services that consists in—
  - (a) the carrying out of works to the fabric of the part, or
  - (b) the carrying out of works to the fabric of the building, or within the immediate site of the building, that are in connection with—
    - (i) the means of providing water, power, heat or access to the part,
    - (ii) the means of providing drainage or security for the part, or
    - (iii) the provision of means of waste disposal for the part.
- (3) In this paragraph—
  - (a) references to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials;
  - (b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

#### Meaning of “building materials”

- 12 In this Group “building materials” has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).

### GROUP 7 — [<sup>F1093</sup>RESIDENTIAL RENOVATIONS AND ALTERATIONS]

#### Textual Amendments

**F1093**Sch. 7A Pt. 2 Group 7 Title substituted (1.6.2002) by virtue of [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), **art. 5(a)**

#### ITEM NO.

- 1 The supply, in the course of the renovation or alteration of [<sup>F1094</sup>qualifying residential premises], of qualifying services related to the renovation or alteration.

#### Textual Amendments

**F1094**Words in Sch. 7A Pt. 2 Group 7 Item 1 substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), **art. 5(b)**

- 2 The supply of building materials if—
- (a) the materials are supplied by a person who, in the course of the renovation or alteration of [<sup>F1095</sup>qualifying residential premises], is supplying qualifying services related to the renovation or alteration, and

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) those services include the incorporation of the materials in [<sup>F1096</sup>the premises concerned or their immediate site].

NOTES:

#### Textual Amendments

**F1095** Words in Sch. 7A Pt. 2 Group 7 Item 2 substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(b\)](#)

**F1096** Words in Sch. 7A Pt. 2 Group 7 Item 2(b) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(c\)](#)

*Supplies only partly within item 1*

- 1 (1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.
- (2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.
- (3) An apportionment may be made to determine that extent.

*Meaning of “alteration” and “qualifying residential premises”*

[<sup>F1097</sup>2

- (1) For the purposes of this Group—  
“alteration” includes extension;  
“qualifying residential premises” means—  
(a) a single household dwelling,  
(b) a multiple occupancy dwelling, or  
(c) a building, or part of a building, which, when it was last lived in, was used for a relevant residential purpose.
- (2) Where a building, when it was last lived in, formed part of a relevant residential unit then, to the extent that it would not be so regarded otherwise, the building shall be treated as having been used for a relevant residential purpose.
- (3) A building forms part of a relevant residential unit at any time when—  
(a) it is one of a number of buildings on the same site, and  
(b) the buildings are used together as a unit for a relevant residential purpose.
- (4) The following expressions have the same meaning in this Group as they have in Group 6—  
“multiple occupancy dwelling”(paragraph 4(2) of the Notes to that Group);  
“single household dwelling”(paragraph 4(1) of the Notes);  
“use for a relevant residential purpose”(paragraph 6 of the Notes).]

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F1097**Sch. 7A Pt. 2 Group 7 Note 2 substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(d\)](#)

*Items 1 and 2 only apply where <sup>F1098</sup>premises have] been empty for at least <sup>F1099</sup>2 years]*

- 3 <sup>F1100</sup>(1) Item 1 or 2 does not apply to a supply unless—
- (a) the first empty home condition is satisfied, or
  - (b) if the premises are a single household dwelling, either of the empty home conditions is satisfied.]
- <sup>F1101</sup>(2) The first “empty home condition” is that neither—
- (a) the premises concerned, nor
  - (b) where those premises are a building, or part of a building, which, when it was last lived in, formed part of a relevant residential unit, any of the other buildings that formed part of the unit,
- have been lived in during the period of <sup>F1099</sup>2 years] ending with the commencement of the relevant works.]
- (3) The second “empty home condition” is that—
- (a) the dwelling was not lived in during a period of at least <sup>F1099</sup>2 years];
  - (b) the person, or one of the persons, whose beginning to live in the dwelling brought that period to an end was a person who (whether alone or jointly with another or others) acquired the dwelling at a time—
    - (i) no later than the end of that period, and
    - (ii) when the dwelling had been not lived in for at least <sup>F1099</sup>2 years];
  - (c) no works by way of renovation or alteration were carried out to the dwelling during the period of <sup>F1099</sup>2 years] ending with the acquisition;
  - (d) the supply is made to a person who is—
    - (i) the person, or one of the persons, whose beginning to live in the property brought to an end the period mentioned in paragraph (a), and
    - (ii) the person, or one of the persons, who acquired the dwelling as mentioned in paragraph (b); and
  - (e) the relevant works are carried out during the period of one year beginning with the day of the acquisition.
- (4) In this paragraph “the relevant works” means—
- (a) where the supply is of the description set out in item 1, the works that constitute the services supplied;
  - (b) where the supply is of the description set out in item 2, the works by which the materials concerned are incorporated in <sup>F1102</sup>the premises concerned or their immediate site].
- (5) In sub-paragraph (3), references to a person acquiring a dwelling are to that person having a major interest in the dwelling granted, or assigned, to him for a consideration.



*Status: Point in time view as at 26/07/2021.*

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#### Textual Amendments

- F1098** Words in Sch. 7A Pt. 2 Group 7 Note 3 heading substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(e\)\(i\)](#)
- F1099** Words in Sch. 7A Pt. 2 Group 7 Note 3 substituted (1.1.2008) by [The Value Added Tax \(Reduced Rate\) \(No. 2\) Order 2007 \(S.I. 2007/3448\)](#), [arts. 1, 3, 4](#)
- F1100** Sch. 7A Pt. 2 Group 7 Note 3(1) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(e\)\(ii\)](#)
- F1101** Sch. 7A Pt. 2 Group 7 Note 3(2) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(e\)\(iii\)](#)
- F1102** Words in Sch. 7A Pt. 2 Group 7 Note 3(4)(b) substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(e\)\(iv\)](#)

*Items 1 and 2 apply to related garage works*

[<sup>F1103</sup>3A

- (1) For the purposes of this Group a renovation or alteration of any premises includes any garage works related to the renovation or alteration.
- (2) In this paragraph “garage works” means—
  - (a) the construction of a garage,
  - (b) the conversion of a building, or of a part of a building, that results in a garage, or
  - (c) the renovation or alteration of a garage.
- (3) For the purposes of sub-paragraph (1), garage works are “related” to a renovation or alteration if—
  - (a) they are carried out at the same time as the renovation or alteration of the premises concerned, and
  - (b) the garage is intended to be occupied with the premises.]

#### Textual Amendments

- F1103** Sch 7A Pt. 2 Group 7 Note 3A inserted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), [art. 5\(f\)](#)

*Items 1 and 2 only apply if planning consent and building control approval obtained*

- 4
- (1) Item 1 or 2 does not apply to a supply unless any statutory planning consent needed for the renovation or alteration has been granted.
  - (2) Item 1 or 2 does not apply to a supply unless any statutory building control approval needed for the renovation or alteration has been granted.

*Items 1 and 2 only apply if building used for relevant residential purpose is subsequently used solely for that purpose*

[<sup>F1104</sup>4A

*Status: Point in time view as at 26/07/2021.*

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- (1) Item 1 or 2 does not apply to a supply if the premises in question are a building, or part of a building, which, when it was last lived in, was used for a relevant residential purpose unless—
- (a) the building or part is intended to be used solely for such a purpose after the renovation or alteration, and
  - (b) before the supply is made the person to whom it is made has given to the person making it a certificate stating that intention.
- (2) Where a number of buildings on the same site are—
- (a) renovated or altered at the same time, and
  - (b) intended to be used together as a unit solely for a relevant residential purpose, then each of those buildings, to the extent that it would not be so regarded otherwise, shall be treated as intended for use solely for a relevant residential purpose.]

#### Textual Amendments

**F1104** Sch. 7A Pt. 2 Group 7 Note 4A inserted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), **art. 5(g)**

#### Meaning of “supply of qualifying services”

- 5 (1) “Supply of qualifying services” means a supply of services that consists in—
- (a) the carrying out of works to the fabric of the [<sup>F1105</sup>premises], or
  - (b) the carrying out of works within the immediate site of the [<sup>F1105</sup>premises] that are in connection with—
    - (i) the means of providing water, power, heat or access to the [<sup>F1105</sup>premises],
    - (ii) the means of providing drainage or security for the [<sup>F1105</sup>premises], or
    - (iii) the provision of means of waste disposal for the [<sup>F1105</sup>premises].
- (2) In sub-paragraph (1)(a), the reference to the carrying out of works to the fabric of the [<sup>F1105</sup>premises] does not include the incorporation, or installation as fittings, in the [<sup>F1105</sup>premises] of any goods that are not building materials.

#### Textual Amendments

**F1105** Word in Sch. 7A Pt. 2 Group 7 Note 5 substituted (1.6.2002) by [The Value Added Tax \(Reduced Rate\) Order 2002 \(S.I. 2002/1100\)](#), **art. 5(h)**

#### Meaning of “building materials”

- 6 In this Group “building materials” has the meaning given by Notes (22) and (23) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## <sup>F1106</sup>GROUP 8— CONTRACEPTIVE PRODUCTS

### Textual Amendments

**F1106** Sch. 7A Pt. 2 Groups 8, 9 inserted (1.7.2006) by [The Value Added Tax \(Reduced Rate\) Order 2006 \(S.I. 2006/1472\)](#), arts. 1, 4, [Sch.](#)

#### ITEM NO.

- 1 Supplies of contraceptive products, other than relevant exempt supplies.

#### NOTES:

##### *Meaning of “contraceptive products”*

- 1 In this Group “contraceptive product” means any product designed for the purposes of human contraception, but does not include any product designed for the purpose of monitoring fertility.

##### *Meaning of “relevant exempt supplies”*

- 2 In this Group “relevant exempt supplies” means supplies which fall within item 4 of Group 7 of Schedule 9 (exempt supplies of goods in any hospital etc. in connection with medical or surgical treatment etc.).

## GROUP 9— WELFARE ADVICE OR INFORMATION

#### ITEM NO.

- 1 Supplies of welfare advice or information by—  
(a) a charity, or  
(b) a state-regulated private welfare institution or agency.

#### NOTES:

##### *Meaning of “welfare advice or information”*

- 1 In this Group “welfare advice or information” means advice or information which directly relates to—  
(a) the physical or mental welfare of elderly, sick, distressed or disabled persons, or  
(b) the care or protection of children and young persons.

##### *Meaning of “state-regulated”*

- 2 For the purposes of this Group “state-regulated” has the same meaning as in Group 7 (health and welfare) of Schedule 9 (see Note (8) of that Group).

##### *Meaning of “state-regulated”*

- 3 Item 1 does not include—  
(a) supplies that would be exempt by virtue of Group 6 of Schedule 9 (education) if they were made by an eligible body within the meaning of that Group,  
(b) supplies of goods, unless the goods are supplied wholly or almost wholly for the purpose of conveying the advice or information, or  
(c) supplies of advice or information provided solely for the benefit of a particular individual or according to his personal circumstances.]

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [<sup>F1107</sup>GROUP 10 – INSTALLATION OF MOBILITY AIDS FOR THE ELDERLY

### Textual Amendments

**F1107** Sch. 7A Pt. 2 Group 10 inserted (1.7.2007 with effect in relation to supplies made on or after that date) by [The Value Added Tax \(Reduced Rate\) Order 2007 \(S.I. 2007/1601\)](#), arts. 1(1)(2), 4

### ITEM NO.

- 1 The supply of services of installing mobility aids for use in domestic accommodation by a person who, at the time of the supply, is aged 60 or over.
2. The supply of mobility aids by a person installing them for use in domestic accommodation by a person who, at the time of the supply, is aged 60 or over.

### NOTES:

#### *Meaning of “mobility aids”*

- 1 For the purposes of this Group “mobility aids” means any of the following—
  - (a) grab rails;
  - (b) ramps;
  - (c) stair lifts;
  - (d) bath lifts;
  - (e) built-in shower seats or showers containing built-in shower seats;
  - (f) walk-in baths fitted with sealable doors.

#### *Meaning of “domestic accommodation”*

- 2 For the purposes of this Group “domestic accommodation” means a building, or part of a building, that consists of a dwelling or a number of dwellings.]

## [<sup>F1108</sup>GROUP 11 — SMOKING CESSATION PRODUCTS

### Textual Amendments

**F1108** Sch. 7A Pt. 2 Group 11 inserted (1.7.2007 with effect in relation to supplies made on or after that date but before 1.7.2008) by [The Value Added Tax \(Reduced Rate\) Order 2007 \(S.I. 2007/1601\)](#), arts. 1(1)(3), 5

### ITEM NO.

1. Supplies of pharmaceutical products designed to help people to stop smoking tobacco.]

## [<sup>F1109</sup>GROUP 12

### CARAVANS

### Textual Amendments

**F1109** Sch. 7A Pt. 2 Group 12 inserted (6.4.2013) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 6\(3\), 7\(2\)](#)

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Item No*

- 1 Supplies of caravans which exceed the limits of size of a trailer for the time being permitted to be towed on roads by a motor vehicle having a maximum gross weight of 3,500 kilogrammes.
- 2 The supply of such services as are described in paragraph 1(1) or 5(4) of Schedule 4 in respect of a caravan within item 1.

NOTE: This Group does not include—

- (a) removable contents other than goods of a kind mentioned in item 4 of Group 5 of Schedule 8, or
- (b) the supply of accommodation in a caravan.]

**[<sup>F1110</sup>GROUP 13**

**CABLE-SUSPENDED PASSENGER TRANSPORT SYSTEMS**

**Textual Amendments**

**F1110** Sch. 7A Pt. 2 Group 13 inserted (1.4.2013) by [The Value Added Tax \(Reduced Rate\) \(Cable-Suspended Passenger Transport Systems\) Order 2013 \(S.I. 2013/430\)](#), arts. 1, **2(3)**

*Item No.*

- 1 Supplies of welfare advice or information by—
  - (a) a charity, or
  - (b) a state-regulated private welfare institution or agency.

NOTES:

*Supplies not within item 1*

- 1 Item 1 does not include the transport of passengers to, from or within—
  - (i) a place of entertainment, recreation or amusement; or
  - (ii) a place of cultural, scientific, historical or similar interest,by the person, or a person connected with that person, who supplies a right of admission to, or a right to use facilities at, such a place.
- 2 For the purposes of Note 1 any question as to whether a person is connected with another shall be determined in accordance with section 1122 of the Corporation Tax Act 2010.]

**[<sup>F1111</sup>GROUP 14 — COURSE OF CATERING**

**Textual Amendments**

**F1111** Sch. 7A Pt. 2 Groups 14-16 inserted (temp.) (15.7.2020) by virtue of [The Value Added Tax \(Reduced Rate\) \(Hospitality and Tourism\) \(Coronavirus\) Order 2020 \(S.I. 2020/728\)](#), arts. 1, **4** (with art. 2)

*Item No*

- 1 Supplies in the course of catering of—

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) any food or drink for consumption on the premises on which it is supplied, or
- (b) any hot food or hot drink for consumption off those premises,

#### NOTES

- (1) Note (3A) to Group 1 (Food) of Schedule 8 applies in relation to this Group as it applies in relation to Note (3) in that Group.
- (2) Notes (3B) to (3D) to Group 1 (Food) of Schedule 8 apply in relation to this Group as they apply in relation to that Group.
- (3) “Alcoholic beverage” means a beverage within Item 3 in the list of excepted items in Group 1 of Schedule 8.

#### **GROUP 15 — HOLIDAY ACCOMMODATION ETC**

##### Item No

- 1 Any supply which, because it falls within paragraph (d), (e) so far as the supply consists of the grant of a licence to occupy holiday accommodation, (f) or (g) of Item 1 in Group 1 (Land) of Schedule 9, is not an exempt supply by virtue of that Item.

#### **GROUP 16 — SHOWS AND CERTAIN OTHER ATTRACTIONS**

##### Item No

- 1 Supplies of a right of admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas and exhibitions and similar cultural events and facilities but excluding any supplies that are exempt supplies by virtue of Items 1 or 2 in Group 13 of Schedule 9.]

#### SCHEDULE 8

Section 30.

#### ZERO-RATING

#### **PART I**

#### INDEX TO ZERO-RATED SUPPLIES OF GOODS AND SERVICES

<b>Subject matter</b>	<b>Group Number</b>	<b>1983 Group Number</b>
Bank notes	Group 11	<i>Group 13</i>
Books etc.	Group 3	<i>Group 3</i>
Caravans and houseboats	Group 9	<i>Group 11</i>
Charities etc.	Group 15	<i>Group 16</i>
Clothing and footwear	Group 16	<i>Group 17</i>
Construction of buildings etc.	Group 5	<i>Group 8</i>

*Status: Point in time view as at 26/07/2021.*

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Drugs, medicines, aids for the [ <sup>F1112</sup> disabled] etc.	Group 12	Group 14
F1113	F1113	
...	...	
F1114	F1114	
...	...	
Food	Group 1	Group 1
Gold	Group 10	Group 12
Imports, exports etc.	Group 13	Group 15
International services	Group 7	Group 9
[ <sup>F1115</sup> Online marketplaces (deemed supply)	Group 21]	
[ <sup>F1116</sup> Personal protective equipment (coronavirus)	Group 20]	
Protected buildings	Group 6	Group 8A
Sewerage services and water	Group 2	Group 2
Talking books for the blind and [ <sup>F1117</sup> disabled] and wireless sets for the blind	Group 4	Group 4
F1118	F1118	F1118
...	...	...
Transport	Group 8	Group 10
[ <sup>F1119</sup> Women's sanitary products	Group 19]	

#### Textual Amendments

- F1112** Word in Sch. 8 Pt. I substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 5(a)**
- F1113** Words in Sch. 8 Pt. I omitted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Emissions Allowances\) Order 2010 \(S.I. 2010/2549\)](#), arts. 1(2), **2(2)**
- F1114** Words in Sch. 8 Pt. I omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1115** Words in Sch. 8 Pt. I inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), **Sch. 3 para. 16(2)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9
- F1116** Words in Sch. 8 Pt. I inserted (1.5.2020) by [The Value Added Tax \(Zero Rate for Personal Protective Equipment\) \(Coronavirus\) Order 2020 \(S.I. 2020/458\)](#), arts. 1, **3**
- F1117** Word in Sch. 8 Pt. I substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 5(b)**
- F1118** Sch. 8 Pt. I: entry relating to “tax-free shops” deleted (1.7.1999) by S.I. 1999/1642, **art. 2(a)**

*Status: Point in time view as at 26/07/2021.*

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**F1119** Words in Sch. 8 Pt. I inserted (with effect in accordance with s. 126(5)(6) of the amending Act) by Finance Act 2016 (c. 24), s. **126(3)**; S.I. 2020/1642, reg. 3

## F1120F1121F1122 PART II

### THE GROUPS

#### Textual Amendments

**F1120** Sch. 8 Pt. 2 Group 19 inserted (with effect in accordance with s. 126(5)(6) of the amending Act) by Finance Act 2016 (c. 24), s. **126(4)**; S.I. 2020/1642, reg. 3

**F1121** Sch. 8 Pt. II Group 21 inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 16(3)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9

**F1122** Words in Sch. 8 Pt. II substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 8** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9

#### Modifications etc. (not altering text)

**C102** Sch. 8 Group 12 Note (2D)(i) is revoked (7.12.15) as it appears in the inserting provision (S.I. 2009/2972, art. 6) by The National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862), regs. 1(2), 98, Sch. 5 Table

**C103** Sch. 8 Pt. II modified (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by 2018 c. 22, Sch. 7 para. 158(6) (as inserted by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 1 para. 10(6)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9)

### GROUP 1— FOOD

The supply of anything comprised in the general items set out below, except—

- (a) a supply in the course of catering; and
- (b) a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.

#### *General items*

#### *Item No.*

- 1 Food of a kind used for human consumption.
- 2 Animal feeding stuffs.
- 3 Seeds or other means of propagation of plants comprised in item 1 or 2.
- 4 Live animals of a kind generally used as, or yielding or producing, food for human consumption.



*Status: Point in time view as at 26/07/2021.*

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### *Excepted items*

#### *Item No.*

- 1 Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products, and prepared mixes and powders for making such products.
- 2 Confectionery, not including cakes or biscuits other than biscuits wholly or partly covered with chocolate or some product similar in taste and appearance.
- 3 Beverages chargeable with any duty of excise specifically charged on spirits, beer, wine or made-wine and preparations thereof.
- 4 Other beverages (including fruit juices and bottled waters) and syrups, concentrates, essences, powders, crystals or other products for the preparation of beverages.
- [<sup>F1123</sup>4A Sports drinks that are advertised or marketed as products designed to enhance physical performance, accelerate recovery after exercise or build bulk, and other similar drinks, including (in either case) syrups, concentrates, essences, powders, crystals or other products for the preparation of such drinks.]

#### **Textual Amendments**

**F1123** Sch. 8 Pt. II Group 1 excepted item 4A inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 2\(2\), 7\(1\)](#)

- 5 Any of the following when packaged for human consumption without further preparation, namely, potato crisps, potato sticks, potato puffs, and similar products made from the potato, or from potato flour, or from potato starch, and savoury food products obtained by the swelling of cereals or cereal products; and salted or roasted nuts other than nuts in shell.
- 6 Pet foods, canned, packaged or prepared; packaged foods (not being pet foods) for birds other than poultry or game; and biscuits and meal for cats and dogs.
- 7 Goods described in items 1, 2 and 3 of the general items which are canned, bottled, packaged or prepared for use—
  - (a) in the domestic brewing of any beer;
  - (b) in the domestic making of any cider or perry;
  - (c) in the domestic production of any wine or made-wine.

### *Items overriding the exceptions*

#### *Item No.*

- 1 Yoghurt unsuitable for immediate consumption when frozen.
- 2 Drained cherries.
- 3 Candied peels.
- 4 Tea, mateg, herbal teas and similar products, and preparations and extracts thereof.
- 5 Cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof.
- 6 Milk and preparations and extracts thereof.

*Status: Point in time view as at 26/07/2021.*

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7 Preparations and extracts of meat, yeast or egg.  
Notes:

- (1) “Food” includes drink.
- (2) “Animal” includes bird, fish, crustacean and mollusc.
- (3) A supply of anything in the course of catering includes—
  - (a) any supply of it for consumption on the premises on which it is supplied; and
  - (b) any supply of hot food for consumption off those premises;

F1124 ...
- [<sup>F1125</sup>(3A) For the purposes of Note (3), in the case of any supplier, the premises on which food is supplied include any area set aside for the consumption of food by that supplier's customers, whether or not the area may also be used by the customers of other suppliers.
- (3B) “Hot food” means food which (or any part of which) is hot at the time it is provided to the customer and—
  - (a) has been heated for the purposes of enabling it to be consumed hot,
  - (b) has been heated to order,
  - (c) has been kept hot after being heated,
  - (d) is provided to a customer in packaging that retains heat (whether or not the packaging was primarily designed for that purpose) or in any other packaging that is specifically designed for hot food, or
  - (e) is advertised or marketed in a way that indicates that it is supplied hot.
- (3C) For the purposes of Note (3B)—
  - (a) something is “hot” if it is at a temperature above the ambient air temperature, and
  - (b) something is “kept hot” after being heated if the supplier stores it in an environment which provides, applies or retains heat, or takes other steps to ensure it remains hot or to slow down the natural cooling process.
- (3D) In Notes (3B) and (3C), references to food being heated include references to it being cooked or reheated.]
- (4) Item 1 of the items overriding the exceptions relates to item 1 of the excepted items.
- (5) Items 2 and 3 of the items overriding the exceptions relate to item 2 of the excepted items; and for the purposes of item 2 of the excepted items “confectionery” includes chocolates, sweets and biscuits; drained, glaceg or crystallised fruits; and any item of sweetened prepared food which is normally eaten with the fingers.
- (6) [<sup>F1126</sup>Items 4 to 7] of the items overriding the exceptions relate to item 4 of the excepted items.
- (7) Any supply described in this Group shall include a supply of services described in paragraph 1(1) of Schedule 4.

*Status: Point in time view as at 26/07/2021.*

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#### Textual Amendments

**F1124** Words in Sch. 8 Pt. II Group 1 Note (3) omitted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 2\(3\), 7\(1\)](#)

**F1125** Sch. 8 Pt. II Group 1 Notes (3A)-(3D) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 2\(4\), 7\(1\)](#)

**F1126** Words in Sch. 8 Pt. II Group 1 Note 6 substituted (*retrospectively*) by [1999 c. 16, s. 14](#)

#### Textual Amendments

**F1124** Words in Sch. 8 Pt. II Group 1 Note (3) omitted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 2\(3\), 7\(1\)](#)

**F1125** Sch. 8 Pt. II Group 1 Notes (3A)-(3D) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 2\(4\), 7\(1\)](#)

**F1126** Words in Sch. 8 Pt. II Group 1 Note 6 substituted (*retrospectively*) by [1999 c. 16, s. 14](#)

## GROUP 2— SEWERAGE SERVICES AND WATER

### Item No.

- 1 Services of—
  - (a) reception, disposal or treatment of foul water or sewage in bulk, and
  - (b) emptying of cesspools, septic tanks or similar receptacles which are used otherwise than in connection with the carrying on in the course of a business of a relevant industrial activity.
- 2 The supply, for use otherwise than in connection with the carrying on in the course of a business of a relevant industrial activity, of water other than—
  - (a) distilled water, deionised water and water of similar purity, <sup>F1127</sup> . . .
  - (b) water comprised in any of the excepted items set out in Group 1.

[<sup>F1128</sup>and

  - (c) water which has been heated so that it is supplied at a temperature higher than that at which it was before it was heated.]

*Note:* “Relevant industrial activity” means any activity described in any of Divisions 1 to 5 of the 1980 edition of the publication prepared by the Central Statistical Office and known as the Standard Industrial Classification.

#### Textual Amendments

**F1127** Word in Sch. 8 Pt. II Group 2 item 2 para.(a) omitted (26.6.1996) by virtue of [S.I. 1996/1661](#), [arts. 1, 2\(a\)](#)

**F1128** Sch. 8 Pt. II Group 2 item 2 para.(c) inserted (26.6.1996) by [S.I. 1996/1661](#), [arts. 1, 2\(b\)](#)

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### GROUP 3— BOOKS, ETC.

#### Item No.

- 1 Books, booklets, brochures, pamphlets and leaflets.
  - 2 Newspapers, journals and periodicals.
  - 3 Children’s picture books and painting books.
  - 4 Music (printed, duplicated or manuscript).
  - 5 Maps, charts and topographical plans.
  - 6 Covers, cases and other articles supplied with items 1 to 5 and not separately accounted for.
- [<sup>F1129</sup>7. The publications listed in Items 1 to 3 when supplied electronically, but excluding publications which—
- (a) are wholly or predominantly devoted to advertising, or
  - (b) consist wholly or predominantly of audio or video content.]

#### Textual Amendments

**F1129** Sch. 8 Pt. II Group 3 Item 7 inserted (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\)](#), arts. 1, 3

#### [<sup>F1130</sup>Notes]

- [<sup>F1131</sup>(1) Items 1 to 7 do not include plans or drawings for industrial, architectural, engineering, commercial or similar purposes.
- (1A) Items 1 to 6 include the supply of the services described in paragraph 1(1) of Schedule 4 in respect of goods comprised in the items.]
- [<sup>F1132</sup>(2) Items 1 to 6 do not include goods in circumstances where—
- (a) the supply of the goods is connected with a supply of services, and
  - (b) those connected supplies are made by different suppliers.
- [ Item 7 does not include services in circumstances where—
- <sup>F1133</sup>(2A) (a) the supply of the services is connected with a supply of goods or services; and
- (b) those connected supplies are made by different suppliers.]
- (3) For the purposes of [<sup>F1134</sup>Notes (2) and (2A)] [<sup>F1135</sup>two supplies are connected with each other] if, had those two supplies been made by a single supplier—
- (a) they would have been treated as a single supply <sup>F1136</sup>..., and
  - (b) that single supply would have been a taxable supply (other than a zero-rated supply) or an exempt supply.]

#### Textual Amendments

**F1131** Sch. 8 Pt. II Group 3 Notes (1)(1A) substituted for Sch. 8 Pt. II Group 3 Note (1) (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\)](#), arts. 1, 4

*Status: Point in time view as at 26/07/2021.*

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- F1132** Sch. 8 Pt. II Group 3 Notes (2)(3) inserted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 75\(3\)](#)
- F1133** Sch. 8 Pt. II Group 3 Note (2A) inserted (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 5](#)
- F1134** Words in Sch. 8 Pt. II Note (3) substituted (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 6\(a\)](#)
- F1135** Words in Sch. 8 Pt. II Note (3) substituted (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 6\(b\)](#)
- F1136** Words in Sch. 8 Pt. II Note (3)(a) omitted (1.5.2020) by virtue of [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 6\(c\)](#)

#### Textual Amendments

- F1130** Words in Sch. 8 Pt. II Group 3 Notes substituted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 75\(2\)](#)
- F1131** Sch. 8 Pt. II Group 3 Notes (1)(1A) substituted for Sch. 8 Pt. II Group 3 Note (1) (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 4](#)
- F1132** Sch. 8 Pt. II Group 3 Notes (2)(3) inserted (with effect in accordance with s. 75(4) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 75\(3\)](#)
- F1133** Sch. 8 Pt. II Group 3 Note (2A) inserted (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 5](#)
- F1134** Words in Sch. 8 Pt. II Note (3) substituted (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 6\(a\)](#)
- F1135** Words in Sch. 8 Pt. II Note (3) substituted (1.5.2020) by [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 6\(b\)](#)
- F1136** Words in Sch. 8 Pt. II Note (3)(a) omitted (1.5.2020) by virtue of [The Value Added Tax \(Extension of Zero-Rating to Electronically Supplied Books etc.\) \(Coronavirus\) Order 2020 \(S.I. 2020/459\), arts. 1, 6\(c\)](#)

### GROUP 4— TALKING BOOKS FOR THE BLIND AND [<sup>F1137</sup>DISABLED] AND WIRELESS SETS FOR THE BLIND

#### Textual Amendments

- F1137** Word in Sch. 8 Pt. II Group 4 heading substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 7 para. 6\(b\)](#)

#### Item No.

- 1 The supply to the Royal National Institute for the Blind, the National Listening Library or other similar charities of—
- (a) magnetic tape specially adapted for the recording and reproduction of speech for the blind or severely [<sup>F1138</sup>disabled];
  - (b) apparatus designed or specially adapted for the making on a magnetic tape, by way of the transfer of recorded speech from another magnetic tape, of a recording described in paragraph (f) below;

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) apparatus designed or specially adapted for transfer to magnetic tapes of a recording made by apparatus described in paragraph (b) above;
- (d) apparatus for re-winding magnetic tape described in paragraph (f) below;
- (e) apparatus designed or specially adapted for the reproduction from recorded magnetic tape of speech for the blind or severely [<sup>F1138</sup>disabled] which is not available for use otherwise than by the blind or severely [<sup>F1138</sup>disabled];
- (f) magnetic tape upon which has been recorded speech for the blind or severely [<sup>F1138</sup>disabled], such recording being suitable for reproduction only in the apparatus mentioned in paragraph (e) above;
- (g) apparatus solely for the making on a magnetic tape of a sound recording which is for use by the blind or severely [<sup>F1138</sup>disabled];
- (h) parts and accessories (other than a magnetic tape for use with apparatus described in paragraph (g) above) for goods comprised in paragraphs (a) to (g) above;
- (i) the supply of a service of repair or maintenance of any goods comprised in paragraphs (a) to (h) above.

#### Textual Amendments

**F1138** Word in Sch. 8 Pt. II Group 4 item 1 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 6\(a\)](#)

- 2 The supply to a charity of—
- (a) wireless receiving sets; or
  - (b) apparatus solely for the making and reproduction of a sound recording on a magnetic tape permanently contained in a cassette,
- being goods solely for gratuitous loan to the blind.

*Note:* The supply mentioned in items 1 and 2 includes the letting on hire of goods comprised in the items.

#### [<sup>F1139</sup>GROUP 5-CONSTRUCTION OF BUILDINGS, ETC.]

#### Textual Amendments

**F1139** Sch. 8 Pt. II Group 5 substituted (1.3.1995) by [S.I. 1995/280](#), [arts. 1, 2](#)

*Item No.*

- [<sup>F1140</sup>1 The first grant by a person—
- (a) constructing a building—
    - (i) designed as a dwelling or number of dwellings; or
    - (ii) intended for use solely for a relevant residential or a relevant charitable purpose; or
  - (b) converting a non-residential building or a non-residential part of a building into a building designed as a dwelling or number of dwellings or a building intended for use solely for a relevant residential purpose,
- of a major interest in, or in any part of, the building, dwelling or its site.]

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

F1140 Sch. 8 Pt. II Group 5 substituted (1.3.1995) by S.I. 1995/280, arts. 1, 2

- [<sup>F11412</sup> The supply in the course of the construction of—
- (a) a building designed as a dwelling or number of dwellings or intended for use solely for a relevant residential purpose or a relevant charitable purpose; or
  - (b) any civil engineering work necessary for the development of a permanent park for residential caravans,
- of any services related to the construction other than the services of an architect, surveyor or any person acting as a consultant or in a supervisory capacity.]

#### Textual Amendments

F1141 Sch. 8 Pt. II Group 5 substituted (1.3.1995) by S.I. 1995/280, arts. 1, 2

- [<sup>F11423</sup> The supply to a [<sup>F1143</sup>relevant housing association] in the course of conversion of a non-residential building or a non-residential part of a building into—
- (a) a building or part of a building designed as a dwelling or number of dwellings; or
  - (b) a building or part of a building intended for use solely for a relevant residential purpose,
- of any services related to the conversion other than the services of an architect, surveyor or any person acting as a consultant or in a supervisory capacity.]

#### Textual Amendments

F1142 Sch. 8 Pt. II Group 5 substituted (1.3.1995) by S.I. 1995/280, arts. 1, 2

F1143 Words in Sch. 8 Pt. II Group 5 item 3 substituted (1.3.1997) by S.I. 1997/50, arts. 1, 2

- [<sup>F11444</sup> The supply of building materials to a person to whom the supplier is supplying services within item 2 or 3 of this Group which include the incorporation of the materials into the building (or its site) in question.]

#### Textual Amendments

F1144 Sch. 8 Pt. II Group 5 substituted (1.3.1995) by S.I. 1995/280, arts. 1, 2

[<sup>F1145</sup> Notes:

- (1) “Grant” includes an assignment or surrender.
- (2) A building is designed as a dwelling or a number of dwellings where in relation to each dwelling the following conditions are satisfied—
  - (a) the dwelling consists of self-contained living accommodation;
  - (b) there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
  - (c) the separate use, or disposal of the dwelling is not prohibited by the term of any covenant, statutory planning consent or similar provision; and

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- (d) statutory planning consent has been granted in respect of that dwelling and its construction or conversion has been carried out in accordance with that consent.
- (3) The construction of, or conversion of a non-residential building to, a building designed as a dwelling or a number of dwellings includes the construction of, or conversion of a non-residential building to, a garage provided that—
- (a) the dwelling and the garage are constructed or converted at the same time; and
  - (b) the garage is intended to be occupied with the dwelling or one of the dwellings.
- (4) Use for a relevant residential purpose means use as—
- (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) a hospice;
  - (d) residential accommodation for students or school pupils;
  - (e) residential accommodation for members of any of the armed forces;
  - (f) a monastery, nunnery or similar establishment; or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.
- (5) Where a number of buildings are—
- (a) constructed at the same time and on the same site; and
  - (b) are intended to be used together as a unit solely for a relevant residential purpose;
- then each of those buildings, to the extent that they would not be so regarded but for this Note, are to be treated as intended for use solely for a relevant residential purpose.
- (6) Use for a relevant charitable purpose means use by a charity in either or both the following ways, namely—
- (a) otherwise than in the course or furtherance of a business;
  - (b) as a village hall or similarly in providing social or recreational facilities for a local community.

[ For the purposes of item 1(b), and for the purposes of these Notes so far as having <sup>F1146</sup>(7) effect for the purposes of item 1(b), a building or part of a building is “non-residential” if—

- (a) it is neither designed, nor adapted, for use—
  - (i) as a dwelling or number of dwellings, or
  - (ii) for a relevant residential purpose; or
- (b) it is designed, or adapted, for such use but—
  - (i) it was constructed more than 10 years before the grant of the major interest;



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- and
- (ii) no part of it has, in the period of 10 years immediately preceding the grant, been used as a dwelling or for a relevant residential purpose.
- (7A) For the purposes of item 3, and for the purposes of these Notes so far as having effect for the purposes of item 3, a building or part of a building is “non-residential” if—
- (a) it is neither designed, nor adapted, for use—
    - (i) as a dwelling or number of dwellings, or
    - (ii) for a relevant residential purpose; or
  - (b) it is designed, or adapted, for such use but—
    - (i) it was constructed more than 10 years before the commencement of the works of conversion, and
    - (ii) no part of it has, in the period of 10 years immediately preceding the commencement of those works, been used as a dwelling or for a relevant residential purpose, and
    - (iii) no part of it is being so used.]
- (8) References to a non-residential building or a non-residential part of a building do not include a reference to a garage occupied together with a dwelling.
- (9) The conversion, other than to a building designed for a relevant residential purpose, of a non-residential part of a building which already contains a residential part is not included within items 1(b) or 3 unless the result of that conversion is to create an additional dwelling or dwellings.
- (10) Where—
- (a) part of a building that is constructed is designed as a dwelling or number of dwellings or is intended for use solely for a relevant residential purpose or relevant charitable purpose (and part is not); or
  - (b) part of a building that is converted is designed as a dwelling or number of dwellings or is used solely for a relevant residential purpose (and part is not)
- 
- then in the case of—
- (i) a grant or other supply relating only to the part so designed or intended for that use (or its site) shall be treated as relating to a building so designed or intended for such use;
  - (ii) a grant or other supply relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and
  - (iii) any other grant or other supply relating to, or to any part of, the building (or its site), an apportionment shall be made to determine the extent to which it is to be so treated.
- (11) Where, a service falling within the description in items 2 or 3 is supplied in part in relation to the construction or conversion of a building and in part for other purposes, an apportionment may be made to determine the extent to which the supply is to be treated as falling within items 2 or 3.
- (12) Where all or part of a building is intended for use solely for a relevant residential purpose or a relevant charitable purpose—
- (a) a supply relating to the building (or any part of it) shall not be taken for the purposes of items 2 and 4 as relating to a building intended for such use

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- unless it is made to a person who intends to use the building (or part) for such a purpose; and
- (b) a grant or other supply relating to the building (or any part of it) shall not be taken as relating to a building intended for such use unless before it is made the person to whom it is made has given to the person making it a certificate in such form as may be specified in a notice published by the Commissioners stating that the grant or other supply (or a specified part of it) so relates.
- (13) The grant of an interest in, or in any part of—
- (a) a building designed as a dwelling or number of dwellings; or
- (b) the site of such a building,
- is not within item 1 if—
- (i) the interest granted is such that the grantee is not entitled to reside in the building or part, throughout the year; or
- (ii) residence there throughout the year, or the use of the building or part as the grantee's principal private residence, is prevented by the terms of a covenant, statutory planning consent or similar permission.
- (14) Where the major interest referred to in item 1 is a tenancy or lease—
- (a) if a premium is payable, the grant falls within that item only to the extent that it is made for consideration in the form of the premium; and
- (b) if a premium is not payable, the grant falls within that item only to the extent that it is made for consideration in the form of the first payment of rent due under the tenancy or lease.
- (15) The reference in item 2(b) of this Group to the construction of a civil engineering work does not include a reference to the conversion, reconstruction, alteration or enlargement of a work.
- (16) For the purpose of this Group, the construction of a building does not include—
- (a) the conversion, reconstruction or alteration of an existing building; or
- (b) any enlargement of, or extension to, an existing building except to the extent the enlargement or extension creates an additional dwelling or dwellings; or
- (c) subject to Note (17) below, the construction of an annexe to an existing building.
- (17) Note 16(c) above shall not apply [<sup>F1147</sup>where the whole or a part of an annexe is intended for use solely for a relevant charitable purpose and]—
- (a) [<sup>F1148</sup>the annexe] is capable of functioning independently from the existing building; and
- (b) the only access or where there is more than one means of access, the main access to:
- (i) the annexe is not via the existing building; and
- (ii) the existing building is not via the annexe.
- (18) A building only ceases to be an existing building when:
- (a) demolished completely to ground level; or
- (b) the part remaining above ground level consists of no more than a single facade or where a corner site, a double facade, the retention of which is a condition or requirement of statutory planning consent or similar permission.

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- (19) A caravan is not a residential caravan if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.
- (20) Item 2 and Item 3 do not include the supply of services described in paragraph 1(1) or 5(4) of Schedule 4.
- [ In item 3 “relevant housing association” means—
- <sup>F1149</sup>(21) [ a private registered provider of social housing,]  
<sup>F1150</sup>(za)
- (a) a registered social landlord within the meaning of Part I of the Housing Act 1996 [<sup>F1151</sup>(Welsh registered social landlords)],
- [<sup>F1152</sup>(b) a registered social landlord within the meaning of the [Housing \(Scotland\) Act 2010 \(asp 17\)](#) which is either—
- (i) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12), or
- (ii) a company within the meaning of the Companies Act 2006 (c.46), or]
- (c) a registered housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992 <sup>F1153</sup> (Northern Irish registered housing associations).]
- (22) “Building materials”, in relation to any description of building, means goods of a description ordinarily incorporated by builders in a building of that description, (or its site), but does not include—
- (a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens;
- (b) materials for the construction of fitted furniture, other than kitchen furniture;
- (c) electrical or gas appliances, unless the appliance is an appliance which is—
- (i) designed to heat space or water (or both) or to provide ventilation, air cooling, air purification, or dust extraction; or
- (ii) intended for use in a building designed as a number of dwellings and is a door-entry system, a waste disposal unit or a machine for compacting waste; or
- (iii) a burglar alarm, a fire alarm, or fire safety equipment or designed solely for the purpose of enabling aid to be summoned in an emergency; or
- (iv) a lift or hoist;
- (d) carpets or carpeting material.
- (23) For the purposes of Note (22) above the incorporation of goods in a building includes their installation as fittings.
- (24) Section 30(3) does not apply to goods forming part of a description of supply in this Group.]

#### Textual Amendments

**F1146** Sch. 8 Pt. II Group 5 Notes (7)(7A) substituted for Sch. 8 Group 5 Note (7) (1.8.2001) by [S.I. 2001/2305](#), arts. 2, 3

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- F1147** Words in Sch. 8 Pt. II Group 5 Note (17) substituted (1.6.2002) by [The Value Added Tax \(Construction of Buildings\) Order 2002 \(S.I. 2002/1101\)](#), **art. 2(a)**
- F1148** Words in Sch. 8 Pt. II Group 5 Note (17)(a) substituted (1.6.2002) by [The Value Added Tax \(Construction of Buildings\) Order 2002 \(S.I. 2002/1101\)](#), **art. 2(b)**
- F1149** Sch. 8 Pt. II Group 5 Note (21) substituted (1.3.1997) by [S.I. 1997/50](#), **arts. 1, 2**
- F1150** Sch. 8 Pt. II Group 5 Note 21(z) inserted (1.4.2010) by [The Value Added Tax \(Construction of Buildings\) Order 2010 \(S.I. 2010/486\)](#), **arts. 1, 2(1)(a)**
- F1151** Words in Sch. 8 Pt. II Group 5 Note (21)(a) inserted (1.4.2010) by [The Value Added Tax \(Construction of Buildings\) Order 2010 \(S.I. 2010/486\)](#), **arts. 1, 2(1)(b)**
- F1152** Sch. 8 Pt. II Group 5 Note (21)(b) substituted (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), **art. 1(3)**, **Sch. para. 5(2)**
- F1153** [S.I. 1992/1725 \(N.I.15\)](#).

#### **Modifications etc. (not altering text)**

- C104** Sch. 8 Pt. II Group 5 Notes (4)-(6) applied (28.11.2002) [S.I. 1995/2518](#), **reg. 84(8)** (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), **reg. 4**)
- C105** Sch. 8 Pt. II Group 5 Notes (4)-(6) applied (28.11.2002) [S.I. 1995/2518](#), **reg. 84(8)** (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), **reg. 4**)
- C106** Sch. 8 Pt. II Group 5 Notes (4)-(6) applied (28.11.2002) [S.I. 1995/2518](#), **reg. 84(8)** (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), **reg. 4**)
- C107** Sch. 8 Pt. II Group 5 Note (7A) applied (1.8.2001) by [S.I. 2001/2305](#), **art. 4**
- C108** Sch. 8 Pt. II Group 5 Note 21 modified (temp.) (1.4.2010) by [The Value Added Tax \(Construction of Buildings\) Order 2010 \(S.I. 2010/486\)](#), **arts. 1, 2(2)**

#### **Textual Amendments**

- F1145** Sch. 8 Pt. II Group 5 substituted (1.3.1995) by [S.I. 1995/280](#), **arts. 1, 2**
- F1146** Sch. 8 Pt. II Group 5 Notes (7)(7A) substituted for Sch. 8 Group 5 Note (7) (1.8.2001) by [S.I. 2001/2305](#), **arts. 2, 3**
- F1147** Words in Sch. 8 Pt. II Group 5 Note (17) substituted (1.6.2002) by [The Value Added Tax \(Construction of Buildings\) Order 2002 \(S.I. 2002/1101\)](#), **art. 2(a)**
- F1148** Words in Sch. 8 Pt. II Group 5 Note (17)(a) substituted (1.6.2002) by [The Value Added Tax \(Construction of Buildings\) Order 2002 \(S.I. 2002/1101\)](#), **art. 2(b)**
- F1149** Sch. 8 Pt. II Group 5 Note (21) substituted (1.3.1997) by [S.I. 1997/50](#), **arts. 1, 2**
- F1150** Sch. 8 Pt. II Group 5 Note 21(z) inserted (1.4.2010) by [The Value Added Tax \(Construction of Buildings\) Order 2010 \(S.I. 2010/486\)](#), **arts. 1, 2(1)(a)**
- F1151** Words in Sch. 8 Pt. II Group 5 Note (21)(a) inserted (1.4.2010) by [The Value Added Tax \(Construction of Buildings\) Order 2010 \(S.I. 2010/486\)](#), **arts. 1, 2(1)(b)**
- F1152** Sch. 8 Pt. II Group 5 Note (21)(b) substituted (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), **art. 1(3)**, **Sch. para. 5(2)**
- F1153** [S.I. 1992/1725 \(N.I.15\)](#).

#### **Modifications etc. (not altering text)**

- C104** Sch. 8 Pt. II Group 5 Notes (4)-(6) applied (28.11.2002) [S.I. 1995/2518](#), **reg. 84(8)** (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), **reg. 4**)
- C105** Sch. 8 Pt. II Group 5 Notes (4)-(6) applied (28.11.2002) [S.I. 1995/2518](#), **reg. 84(8)** (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), **reg. 4**)
- C106** Sch. 8 Pt. II Group 5 Notes (4)-(6) applied (28.11.2002) [S.I. 1995/2518](#), **reg. 84(8)** (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), **reg. 4**)
- C107** Sch. 8 Pt. II Group 5 Note (7A) applied (1.8.2001) by [S.I. 2001/2305](#), **art. 4**

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**C108** Sch. 8 Pt. II Group 5 Note 21 modified (temp.) (1.4.2010) by [The Value Added Tax \(Construction of Buildings\) Order 2010 \(S.I. 2010/486\)](#), arts. 1, **2(2)**

<sup>F1154</sup>**[GROUP 6—PROTECTED BUILDINGS]**

**Textual Amendments**

**F1154** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by [S.I. 1995/283](#), arts. 1, 2

*Item No.*

<sup>F1155</sup>**[ 1** The first grant by a person substantially reconstructing a protected building, of a major interest in, or in any part of, the building or its site.]

**Textual Amendments**

**F1155** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by [S.I. 1995/283](#), arts. 1, 2

<sup>F1156</sup>**2** .....

**Textual Amendments**

**F1156** Sch. 8 Pt. II Group 6 item 2 omitted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 26 paras. 3(2)**, 7(3)

<sup>F1157</sup>**3** .....

**Textual Amendments**

**F1157** Sch. 8 Pt. II Group 6 item 3 omitted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 26 paras. 3(2)**, 7(3)

<sup>F1158</sup>*Notes:*

- (1) “Protected building” means a building which is designed to remain as or become a dwelling or number of dwellings (as defined in Note (2) below) or is intended for use solely for a relevant residential purpose or a relevant charitable purpose after the reconstruction or alteration and which, in either case, is—
  - (a) a listed building within the meaning of—
    - (i) the Planning (Listed Buildings and Conservation Areas) Act 1990 <sup>F1159</sup>; or
    - (ii) <sup>F1160</sup>the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997]; or
    - (iii) the <sup>F1161</sup>Planning (Northern Ireland) Order 1991] <sup>F1162</sup><sup>F1161</sup>Planning Act (Northern Ireland) 2011]; or
  - (b) a scheduled monument, within the meaning of—
    - (i) the Ancient Monuments and Archaeological Areas Act 1979; or

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(ii) [<sup>F1163</sup>the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995].

(2) A building is designed to remain as or become a dwelling or number of dwellings where in relation to each dwelling the following conditions are satisfied—

- (a) the dwelling consists of self-contained living accommodation;
- (b) there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
- (c) the separate use, or disposal of the dwelling is not prohibited by the terms of any covenants, statutory planning consent or similar provision,

and includes a garage (occupied together with a dwelling) either constructed at the same time as the building or where the building has been substantially reconstructed at the same time as that reconstruction.

(3) Notes (1), (4), (6), [<sup>F1164</sup>and (12) to (14)] of Group 5 apply in relation to this Group as they apply in relation to that Group but subject to any appropriate modifications.

[<sup>F1165</sup>(4) For the purposes of item 1, a protected building is not to be regarded as substantially reconstructed unless, when the reconstruction is completed, the reconstructed building incorporates no more of the original building (that is to say, the building as it was before the reconstruction began) than the external walls, together with other external features of architectural or historic interest.]

(5) Where part of a protected building that is substantially reconstructed is designed to remain as or become a dwelling or a number of dwellings or is intended for use solely for a relevant residential or relevant charitable purpose (and part is not)—

- (a) a grant <sup>F1166</sup>... relating only to the part so designed or intended for such use (or its site) shall be treated as relating to a building so designed or intended for such use;
- (b) a grant <sup>F1166</sup>...relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and
- (c) in the case of any other grant <sup>F1166</sup>... relating to, or to any part of, the building (or its site), an apportionment shall be made to determine the extent to which it is to be so treated.

- <sup>F1167</sup>(6) .....
- <sup>F1167</sup>(7) .....
- <sup>F1167</sup>(8) .....
- <sup>F1167</sup>(9) .....
- <sup>F1167</sup>(10) .....
- <sup>F1167</sup>(11) .....]

**Textual Amendments**

**F1159** 1990 c. 9

**F1160** Words in Sch. 8 Pt. II Group 6 Note (1)(a)(ii) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 57(a)**

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**F1161** Words in Sch. 8 Pt. II Group 6 Note (1)(a)(iii) substituted (N.I.) (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by [Planning Act \(Northern-Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 68\(a\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

**F1162** [S.I. 1991/1220 \(N.I.11\)](#).

**F1163** Words in Sch. 8 Pt. II Group 6 Note (1)(b)(ii) substituted (N.I.) (29.8.1995) by [S.I. 1995/1625 \(N.I. 9\), arts. 1\(2\), 45\(1\), Sch. 3 para. 4\(1\)](#)

**F1164** Words in Sch. 8 Pt. II Group 6 Note (3) substituted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(3\), 7\(3\)](#)

**F1165** Sch. 8 Pt. II Group 6 Note (4) substituted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(4\), 7\(3\)](#)

**F1166** Words in Sch. 8 Pt. II Group 6 Note (5) omitted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(5\), 7\(3\)](#)

**F1167** Sch. 8 Pt. II Group 6 Notes (6)-(11) omitted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(6\), 7\(3\)](#)

#### **Modifications etc. (not altering text)**

**C109** Sch. 8 Pt. II Group 6 Notes applied (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 27 para. 3\(2\)](#)

#### **Textual Amendments**

**F1158** Sch. 8 Pt. II Group 6 substituted (1.3.1995) by [S.I. 1995/283, arts. 1, 2](#)

**F1159** [1990 c. 9](#)

**F1160** Words in Sch. 8 Pt. II Group 6 Note (1)(a)(ii) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\), Sch. 2 para. 57\(a\)](#)

**F1161** Words in Sch. 8 Pt. II Group 6 Note (1)(a)(iii) substituted (N.I.) (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by [Planning Act \(Northern-Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 68\(a\)](#) (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

**F1162** [S.I. 1991/1220 \(N.I.11\)](#).

**F1163** Words in Sch. 8 Pt. II Group 6 Note (1)(b)(ii) substituted (N.I.) (29.8.1995) by [S.I. 1995/1625 \(N.I. 9\), arts. 1\(2\), 45\(1\), Sch. 3 para. 4\(1\)](#)

**F1164** Words in Sch. 8 Pt. II Group 6 Note (3) substituted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(3\), 7\(3\)](#)

**F1165** Sch. 8 Pt. II Group 6 Note (4) substituted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(4\), 7\(3\)](#)

**F1166** Words in Sch. 8 Pt. II Group 6 Note (5) omitted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(5\), 7\(3\)](#)

**F1167** Sch. 8 Pt. II Group 6 Notes (6)-(11) omitted (with effect in accordance with Sch. 26 para. 7(3)-(10) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\), Sch. 26 paras. 3\(6\), 7\(3\)](#)

#### **Modifications etc. (not altering text)**

**C109** Sch. 8 Pt. II Group 6 Notes applied (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 27 para. 3\(2\)](#)

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## GROUP 7— INTERNATIONAL SERVICES

### Item No.

- 1 The supply of services of work carried out on goods which, for that purpose, have been obtained <sup>F1168</sup>... in, or imported into, [<sup>F1169</sup>the United Kingdom] and which are intended to be, and in fact are, subsequently exported <sup>F1170</sup>...—
- (a) by or on behalf of the supplier; or
  - (b) where the recipient of the services belongs in a place outside the [<sup>F1171</sup>United Kingdom], by or on behalf of the recipient.

#### Textual Amendments

**F1168** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(3)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1169** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(3)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1170** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(3)(a)(iii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1171** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 2 The supply of services consisting of the making of arrangements for—
- (a) the export of any goods <sup>F1172</sup>...;
  - (b) a supply of services of the description specified in item 1 of this Group; or
  - (c) any supply of services which is made outside the [<sup>F1173</sup>United Kingdom].

*Note:* This Group does not include any services of a description specified in Group 2 or Group 5 of Schedule 9.

#### Textual Amendments

**F1172** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(3)(c)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1173** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(3)(c)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)



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## GROUP 8— TRANSPORT

- [<sup>F1174</sup>1 The supply, repair or maintenance of a qualifying ship or the modification or conversion of any such ship provided that when so modified or converted it will remain a qualifying ship.]

### Textual Amendments

F1174 Sch. 8 Pt. II Group 8 item 1 substituted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(a)

- [<sup>F1175</sup>2 The supply, repair or maintenance of a qualifying aircraft or the modification or conversion of any such aircraft provided that when so modified or converted it will remain a qualifying aircraft.]

### Textual Amendments

F1175 Sch. 8 Pt. II Group 8 item 2 substituted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(b)

- [<sup>F1176</sup>2A The supply of parts and equipment, of a kind ordinarily installed or incorporated in, and to be installed, or incorporated in,—  
(a) the propulsion, navigation or communication systems; or  
(b) the general structure,  
of a qualifying ship or, as the case may be, aircraft.]

### Textual Amendments

F1176 Sch. 8 Pt. II Group 8 item 2A inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(c)

- [<sup>F1177</sup>2B The supply of life jackets, life rafts, smoke hoods and similar safety equipment for use in a qualifying ship or, as the case may be, aircraft.]

### Textual Amendments

F1177 Sch. 8 Pt. II Group 8 item 2B inserted (1.1.1996) by S.I. 1995/3039, arts. 1, 2(c)

- 3 (a) The supply to and repair or maintenance for a charity providing rescue or assistance at sea of—  
(i) any lifeboat;  
(ii) carriage equipment designed solely for the launching and recovery of lifeboats;  
(iii) tractors for the sole use of the launching and recovery of lifeboats;  
(iv) winches and hauling equipment for the sole use of the recovery of lifeboats.  
(b) The construction, modification, repair or maintenance for a charity providing rescue or assistance at sea of slipways used solely for the launching and recovery of lifeboats.  
(c) The supply of spare parts or accessories to a charity providing rescue or assistance at sea for use in or with goods comprised in paragraph (a) above or slipways comprised in paragraph (b) above.

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- [<sup>F1178</sup>(d) The supply to a charity providing rescue or assistance at sea of equipment that is to be installed, incorporated or used in a lifeboat and is of a kind ordinarily installed, incorporated or used in a lifeboat.]
- [<sup>F1179</sup>(e) The supply of fuel to a charity providing rescue or assistance at sea where the fuel is for use in a lifeboat.]

#### Textual Amendments

**F1178** Sch. 8 Pt. II Group 8 item 3(d) inserted (1.4.2002) by [The Value Added Tax \(Equipment in Lifeboats\) Order 2002 \(S.I. 2002/456\)](#), **art. 2(a)**

**F1179** Sch. 8 Pt. II Group 8 Item 3(e) inserted (1.8.2006) by [The Value Added Tax \(Lifeboats\) Order 2006 \(S.I. 2006/1750\)](#), **arts. 1, 2**

- 4 Transport of passengers—
- (a) in any vehicle<sup>F1180</sup> ... designed or adapted to carry not less than [<sup>F1181</sup>10] passengers;
  - (b) by [<sup>F1182</sup>a universal service provider];
  - (c) on any scheduled flight; or
  - (d) from a place within to a place outside the United Kingdom or vice versa, to the extent that those services are supplied in the United Kingdom.

#### Textual Amendments

**F1180** Words in Sch. 8 omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), **regs. 1, 4**; [S.I. 2020/1641](#), **reg. 2**, Sch.

**F1181** Word in Sch. 8 Pt. II Group 8 item 4(a) substituted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by [S.I. 2001/753](#), **art. 2**

**F1182** Words in Sch. 8 Pt. II Group 8 item 4 substituted (with effect in accordance with s. 22(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **s. 22(1)(a)**

- 5 The transport of goods from a place within to a place outside the [<sup>F1183</sup>United Kingdom] or vice versa, to the extent that those services are supplied within the United Kingdom.

#### Textual Amendments

**F1183** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), **s. 57(3)**, **Sch. 8 para. 94(4)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), **regs. 1(2), 21**), [S.I. 2020/1545](#), **Pt. 4** and [2020 c. 26](#), **Sch. 7 para. 7(7)-(9)**); [S.I. 2020/1642](#), **reg. 4(b)** (with **reg. 7**)

- [<sup>F1184</sup>6 Any services provided for—
- (a) the handling of ships, aircraft or railway vehicles—
    - (i) in a port, customs and excise airport or international railway area, or
    - (ii) outside the United Kingdom;
  - (b) the handling or storage—
    - (i) in a port,
    - (ii) on land adjacent to a port,

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- (iii) in a customs and excise airport,
  - (iv) in an international railway area, or
  - (v) in a temporary storage facility,
- of goods carried in a ship, aircraft or railway vehicle.]

#### Textual Amendments

**F1184** Words in Sch. 8 substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), regs. 1, 5; S.I. 2020/1641, reg. 2, Sch.

- [<sup>F1185</sup>6ZA Any services provided in an airport that is not a customs and excise airport for—
- (a) the handling of an aircraft, or
  - (b) the handling or storage of goods carried in an aircraft,
- provided that the aircraft is of a type mentioned in paragraph (b)(i) of Note (A1).]

#### Textual Amendments

**F1185** Sch. 8 Group 8 Item 6ZA inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), regs. 1, 6; S.I. 2020/1641, reg. 2, Sch.

- [<sup>F1186</sup>6A Air navigation services.]

#### Textual Amendments

**F1186** Sch. 8 Pt. II Group 8 item 6A inserted (1.4.1995) by [S.I. 1995/653](#), arts. 1, 3

- 7 Pilotage services.
- 8 Salvage or towage services.
- 9 Any services supplied for or in connection with the surveying of any ship or aircraft or the classification of any ship or aircraft for the purposes of any register.
- 10 The making of arrangements for—
- (a) the supply of, or of space in, any ship or aircraft; <sup>F1187</sup> . . .
  - (b) the supply of any service included in [<sup>F1188</sup> items 1 and 2, 3 to 9 and 11].
  - [<sup>F1189</sup>(c) the supply of any goods of a description falling within items 2A or 2B [<sup>F1190</sup>, or paragraph (d) of item 3.]]

#### Textual Amendments

**F1187** Word in Sch. 8 Pt. II Group 8 item 10(a) deleted (1.1.1996) by [S.I. 1995/3039](#), arts. 1, 2(d)(i)

**F1188** Words in Sch. 8 Pt. II Group 8 item 10(b) substituted (1.1.1996) by [S.I. 1995/3039](#), arts. 1, 2(d)(ii)

**F1189** Sch. 8 Pt. II Group 8 item 10(c) inserted (1.1.1996) by [S.I. 1995/3039](#), arts. 1, 2(d)(iii)

**F1190** Words in Sch. 8 Pt. II Group 8 item 10(c) inserted (1.4.2002) by [The Value Added Tax \(Equipment in Lifeboats\) Order 2002 \(S.I. 2002/456\)](#), art. 2(b)

- 11 The supply—

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- (a) of services consisting of
  - [<sup>F1191</sup>(i) the transport of goods to or from a place—
    - (a) from which they are to be exported, or
    - (b) to which they have been imported,
  - (ii) the handling or storage of those goods at that place, or
  - (iii) the handling or storage of those goods in connection with their transport to or from that place, or]
- (b) to a person who receives the supply for the purpose of a business carried on by him and who belongs outside the United Kingdom, of services of a description specified in paragraph (a) of item 6, [<sup>F1192</sup>item 6A,] item 9 or paragraph (a) of item 10 of this Group.

**Textual Amendments**

**F1191** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 94\(4\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26, Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

**F1192** Words in Sch. 8 Pt. II Group 8 item 11(b) inserted (1.4.1995) by [S.I. 1995/653](#), [arts. 1, 4](#)

[<sup>F1193</sup>12 The supply of a designated travel service to be enjoyed outside the United Kingdom, to the extent to which the supply is so enjoyed.]

**Textual Amendments**

**F1193** Words in Sch. 8 substituted (31.12.2020) by [The Value Added Tax \(Tour Operators\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/73\)](#), [regs. 1, 6](#); [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)

[<sup>F1194</sup>13 . . . . .]

**Textual Amendments**

**F1194** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 94\(4\)\(d\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26, Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

*Notes:*

- [<sup>F1195</sup>(A1) In this Group—
  - (a) a “qualifying ship” is any ship of a gross tonnage of not less than 15 tons which is neither designed nor adapted for use for recreation or pleasure; and
  - [<sup>F1196</sup>(b) a “qualifying aircraft” is any aircraft which —
    - (i) is used by an airline operating for reward chiefly on international routes, or
    - (ii) is used by a State institution and meets the condition in Note (B1).]]
- [<sup>F1197</sup>(B1) The condition is that the aircraft—
  - (a) is of a weight of not less than 8,000 kilograms, and
  - (b) is neither designed nor adapted for use for recreation or pleasure.

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(C1) In Note (A1)(b)—

“airline” means an undertaking which provides services for the carriage by air of passengers or cargo (or both);

<sup>F1198</sup> ...]

(1) In items 1 and 2 the supply of a [<sup>F1199</sup>qualifying] ship or, as the case may be, aircraft includes the supply of services under a charter of that ship or aircraft except where the services supplied under such a charter consist wholly of any one or more of the following—

- (a) transport of passengers;
- (b) accommodation;
- (c) entertainment;
- (d) education;

being services wholly performed in the United Kingdom.

(2) Items 1, 2 [<sup>F1200</sup>, 2A, 2B] and 3 include the letting on hire of the goods specified in the items.

[<sup>F1201</sup>(2A) Items 2A and 2B do not include the supply of parts and equipment to a Government department [<sup>F1202</sup>or any part of the Scottish Administration] unless—

- (a) they are installed or incorporated in the course of a supply which is treated as being made in the course or furtherance of a business carried on by the department; or
- (b) the parts and equipment are to be installed or incorporated in ships or aircraft used for the purpose of providing rescue or assistance at sea.]

(3) Item 3 shall not apply unless, before the supply is made, the recipient of the supply gives to the person making the supply a certificate stating—

- (a) the name and address of the recipient;
- (b) that the supply is of a description specified in item 3 of this Group.

(4) “Lifeboat” means any vessel used or to be used solely for rescue or assistance at sea.

[<sup>F1203</sup>(4ZA) “Vehicle” has the same meaning as in the Management Act.]

[<sup>F1204</sup>(4A) Item 4 does not include the transport of passengers—

- (a) in any vehicle to, from or within—
  - (i) a place of entertainment, recreation or amusement; or
  - (ii) a place of cultural, scientific, historical or similar interest,by the person, or a person connected with him, who supplies a right of admission to, or a right to use facilities at, such a place;
- (b) in any motor vehicle between a car park (or land adjacent thereto) and an airport passenger terminal (or land adjacent thereto) by the person, or a person connected with him, who supplies facilities for the parking of vehicles in that car park; or
- (c) in an aircraft where the flight is advertised or held out to be for the purpose of—
  - (i) providing entertainment, recreation or amusement; or
  - (ii) the experience of flying, or the experience of flying in that particular aircraft,

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and not primarily for the purpose of transporting passengers from one place to another.

(4B) For the purposes of Note (4A) any question whether a person is connected with another shall be determined in accordance with [<sup>F1205</sup>section 1122 of the Corporation Tax Act 2010].

(4C) In Note (4A)(b) “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on the roads.]

[<sup>F1206</sup>(4D) Item 4(a) includes the transport of passengers in a vehicle—

- (a) which is designed, or substantially and permanently adapted, for the safe carriage of a person in a wheelchair or two or more such persons, and
- (b) which, if it were not so designed or adapted, would be capable of carrying no less than 10 persons.]

[<sup>F1207</sup>(4E) “Universal service provider” means a person who provides a universal postal service (within the meaning of [<sup>F1208</sup>Part 3 of the Postal Services Act 2011]), or part of such a service, in the United Kingdom.]

(5) Item 6 does not include the letting on hire of goods.

[<sup>F1209</sup>(6) In Item 6—

- (a) “port” and “temporary storage facility” have the same meanings as in the Management Act;
- (b) “international railway area” means—
  - (i) any place which may be designated as a railway customs area by virtue of section 26(1ZB) of the Management Act, or
  - (ii) such other place relating to international rail travel as may be specified in a notice published by the Commissioners;
- (c) “railway vehicle” has the same meaning as in section 83 of the Railways Act 1993.]

[<sup>F1210</sup>(6ZA) “Customs and excise airport” has the same meaning as in the Management Act.]

[<sup>F1211</sup>(6A) “Air navigation services” has the same meaning as in the Civil Aviation Act 1982  
<sup>F1212</sup>.]

(7) Except for the purposes of item 11, paragraph (a) of item 6, [<sup>F1213</sup>item 6A,] item 9 and paragraph (a) of item 10 [<sup>F1214</sup>only include supplies of services where the ships or aircraft referred to in those paragraphs are qualifying ships or, as the case may be, aircraft].

(8) “Designated travel service” has the same meaning as in the <sup>M34</sup>Value Added Tax (Tour Operators) Order 1987.

<sup>F1215</sup>(9) . . . . .

#### Textual Amendments

**F1195** Sch. 8 Pt. II Group 8 Note (A1) inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1, 2\(e\)](#)

**F1196** Sch. 8 Pt. II Group 8 Note (A1)(b) substituted (with effect in accordance with s. 21(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 21\(2\)](#)

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- F1197** Sch. 8 Pt. II Group 8 Note (B1)(C1) inserted (with effect in accordance with s. 21(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 21\(3\)](#)
- F1198** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 94\(4\)\(e\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F1199** Word in Sch. 8 Pt. II Group 8 Note (1) inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1](#), [2\(f\)](#)
- F1200** Words in Sch. 8 Pt. II Group 8 Note (2) inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1](#), [2\(g\)](#)
- F1201** Sch. 8 Pt. II Group 8 Note (2A) inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1](#), [2\(h\)](#)
- F1202** Words in Sch. 8 Pt. II Group 8 Note (2A) inserted (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\)](#), [4](#), [Sch. 2 Pt. 1 para. 114\(3\)](#); [S.I. 1998/3178](#), [art. 3](#)
- F1203** Sch. 8 Group 8 Note 4ZA inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), [regs. 1](#), [7](#); [S.I. 2020/1641](#), [reg. 2](#), [Sch. 1](#)
- F1204** Sch. 8 Pt. II Group 8 Notes (4A)-(4C) inserted (1.4.1995) by [S.I. 1994/3014](#), [arts. 1](#), [3](#)
- F1205** Words in Sch. 8 Pt. II Group 8 Note (4B) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [s. 1184\(1\)](#), [Sch. 1 para. 285\(d\)](#) (with [Sch. 2](#))
- F1206** Sch. 8 Pt. II Group 8 Note (4D) inserted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by [S.I. 2001/753](#), [art. 3](#)
- F1207** Sch. 8 Pt. II Group 8 Note (4E) inserted (with effect in accordance with s. 22(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 22\(1\)\(b\)](#)
- F1208** Words in Sch. 8 Pt. II Group 8 Note (4E) substituted (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), [art. 1\(2\)](#), [Sch. 1 para. 28\(2\)](#)
- F1209** Words in Sch. 8 substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), [regs. 1](#), [8](#); [S.I. 2020/1641](#), [reg. 2](#), [Sch. 1](#)
- F1210** Sch. 8 Group 8 Note 6ZA inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), [regs. 1](#), [9](#); [S.I. 2020/1641](#), [reg. 2](#), [Sch. 1](#)
- F1211** Sch. 8 Pt. II Group 8 Note (6A) inserted (1.4.1995) by [S.I. 1995/653](#), [arts. 1](#), [5](#)
- F1212** [1982 c.16](#). Air navigation services are defined in section 105(1).
- F1213** Words in Sch. 8 Pt. II Group 8 Note (7) inserted (1.4.1995) by [S.I. 1995/653](#), [arts. 1](#), [6](#)
- F1214** Words in Sch. 8 Pt. II Group 8 Note (7) substituted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1](#), [2\(i\)](#)
- F1215** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 94\(4\)\(f\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

#### Marginal Citations

**M34** [S.I.1987/1086](#)

#### Textual Amendments

- F1195** Sch. 8 Pt. II Group 8 Note (A1) inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1](#), [2\(e\)](#)
- F1196** Sch. 8 Pt. II Group 8 Note (A1)(b) substituted (with effect in accordance with s. 21(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 21\(2\)](#)
- F1197** Sch. 8 Pt. II Group 8 Note (B1)(C1) inserted (with effect in accordance with s. 21(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 21\(3\)](#)
- F1198** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), [s. 57\(3\)](#), [Sch. 8 para. 94\(4\)\(e\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\)](#), [21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))
- F1199** Word in Sch. 8 Pt. II Group 8 Note (1) inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1](#), [2\(f\)](#)
- F1200** Words in Sch. 8 Pt. II Group 8 Note (2) inserted (1.1.1996) by [S.I. 1995/3039](#), [arts. 1](#), [2\(g\)](#)

*Status: Point in time view as at 26/07/2021.*

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- F1201** Sch. 8 Pt. II Group 8 Note (2A) inserted (1.1.1996) by S.I. 1995/3039, **arts. 1, 2(h)**
- F1202** Words in Sch. 8 Pt. II Group 8 Note (2A) inserted (1.7.1999) by S.I. 1999/1820, **arts. 1(2), 4, Sch. 2 Pt. I para. 114(3); S.I. 1998/3178, art. 3**
- F1203** Sch. 8 Group 8 Note 4ZA inserted (31.12.2020) by **The Value Added Tax (Miscellaneous Amendments to Acts of Parliament) (EU Exit) Regulations 2020 (S.I. 2020/1312)**, **regs. 1, 7; S.I. 2020/1641, reg. 2, Sch.**
- F1204** Sch. 8 Pt. II Group 8 Notes (4A)-(4C) inserted (1.4.1995) by S.I. 1994/3014, **arts. 1, 3**
- F1205** Words in Sch. 8 Pt. II Group 8 Note (4B) substituted (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4)**, s. 1184(1), **Sch. 1 para. 285(d)** (with Sch. 2)
- F1206** Sch. 8 Pt. II Group 8 Note (4D) inserted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by S.I. 2001/753, **art. 3**
- F1207** Sch. 8 Pt. II Group 8 Note (4E) inserted (with effect in accordance with s. 22(4) of the amending Act) by **Finance (No. 3) Act 2010 (c. 33)**, **s. 22(1)(b)**
- F1208** Words in Sch. 8 Pt. II Group 8 Note (4E) substituted (1.10.2011) by **The Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 (S.I. 2011/2085)**, **art. 1(2), Sch. 1 para. 28(2)**
- F1209** Words in Sch. 8 substituted (31.12.2020) by **The Value Added Tax (Miscellaneous Amendments to Acts of Parliament) (EU Exit) Regulations 2020 (S.I. 2020/1312)**, **regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.**
- F1210** Sch. 8 Group 8 Note 6ZA inserted (31.12.2020) by **The Value Added Tax (Miscellaneous Amendments to Acts of Parliament) (EU Exit) Regulations 2020 (S.I. 2020/1312)**, **regs. 1, 9; S.I. 2020/1641, reg. 2, Sch.**
- F1211** Sch. 8 Pt. II Group 8 Note (6A) inserted (1.4.1995) by S.I. 1995/653, **arts. 1, 5**
- F1212** 1982 c.16. Air navigation services are defined in section 105(1).
- F1213** Words in Sch. 8 Pt. II Group 8 Note (7) inserted (1.4.1995) by S.I. 1995/653, **arts. 1, 6**
- F1214** Words in Sch. 8 Pt. II Group 8 Note (7) substituted (1.1.1996) by S.I. 1995/3039, **arts. 1, 2(i)**
- F1215** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018 (c. 22)**, s. 57(3), **Sch. 8 para. 94(4)(f)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, **regs. 1(2), 21**), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, **reg. 4(b)** (with **reg. 7**)

#### Marginal Citations

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### GROUP 9— CARAVANS AND HOUSEBOATS

Item No.

- [<sup>F1216</sup>1 Caravans which exceed the limits of size of a trailer for the time being permitted to be towed on roads by a motor vehicle having a maximum gross weight of 3,500 kilogrammes and which—
- (a) were manufactured to standard BS 3632:2005 [<sup>F1217</sup>or BS 3632:2015] approved by the British Standards Institution, or
  - (b) are second hand, were manufactured to a previous version of standard BS 3632 approved by that Institution and were occupied before 6 April 2013.]

#### Textual Amendments

**F1216** Sch. 8 Pt. II Group 9 item 1 substituted (6.4.2013) by **Finance Act 2012 (c. 14)**, **Sch. 26 paras. 4(2), 7(2)**

**F1217** Words in Sch. 8 Pt. II Group 9 item 1 inserted (2.12.2015) by **The Value Added Tax (Caravans) Order 2015 (S.I. 2015/1949)**, **arts. 1, 2(2)**



*Status: Point in time view as at 26/07/2021.*

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- 2 Houseboats being boats or other floating decked structures designed or adapted for use solely as places of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.
- 3 The supply of such services as are described in paragraph 1(1) or [<sup>F1218</sup>5(4)] of Schedule 4 in respect of a caravan comprised in item 1 or a houseboat comprised in item 2.

**Textual Amendments**

**F1218** Word in Sch. 8 Pt. II Group 9 item 3 substituted (6.4.2013) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 4\(3\), 7\(2\)](#)

*Note:*

This Group does not include—

- (a) removable contents other than goods of a kind mentioned in [<sup>F1219</sup>item 4] of Group 5; or
- (b) the supply of accommodation in a caravan or houseboat.

**Textual Amendments**

**F1219** Words in Sch. 8 Pt. II Group 9 Note substituted (6.4.2013) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 4\(4\), 7\(2\)](#)

**Textual Amendments**

**F1219** Words in Sch. 8 Pt. II Group 9 Note substituted (6.4.2013) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 4\(4\), 7\(2\)](#)

## GROUP 10— GOLD

*Item No.*

- 1 The supply, by a Central Bank to another Central Bank or a member of the London Gold Market, of gold held in the United Kingdom.
- 2 The supply, by a member of the London Gold Market to a Central Bank, of gold held in the United Kingdom.

*Notes:*

- (1) “Gold” includes gold coins.
- (2) Section 30(3) does not apply to goods forming part of a description of supply in this Group.
- (3) Items 1 and 2 include—
  - (a) the granting of a right to acquire a quantity of gold; and
  - (b) any supply described in those items which by virtue of paragraph 1 of Schedule 4 is a supply of services.

*Status: Point in time view as at 26/07/2021.*

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## GROUP 11— BANK NOTES

*Item No.*

- 1 The issue by a bank of a note payable to bearer on demand.

## GROUP 12— DRUGS, MEDICINES, AIDS FOR THE <sup>F1220</sup>DISABLED], ETC.

### Textual Amendments

**F1220** Word in Sch. 8 Pt. II Group 12 heading substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(c\)](#)

*Item No.*

- <sup>F1221</sup>1 The supply of any qualifying goods dispensed to an individual for that individual's personal use on the prescription of an appropriate practitioner where the dispensing is—
- (a) by a registered pharmacist, or
  - (b) in accordance with a requirement or authorisation under a relevant provision.]

### Textual Amendments

**F1221** Sch. 8 Pt. II Group 12 item 1 substituted for items 1, 1A (with effect in accordance with art. 1 of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, 3

<sup>F1221</sup>1A . . . . .

### Textual Amendments

**F1221** Sch. 8 Pt. II Group 12 item 1 substituted for items 1, 1A (with effect in accordance with art. 1 of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, 3

- 2 The supply to a <sup>F1222</sup>disabled] person for domestic or his personal use, or to a charity for making available to <sup>F1222</sup>disabled] persons by sale or otherwise, for domestic or their personal use, of—
- (a) medical or surgical appliances designed solely for the relief of a severe abnormality or severe injury;
  - (b) electrically or mechanically adjustable beds designed for invalids;
  - (c) commode chairs, commode stools, devices incorporating a bidet jet and warm air drier and frames or other devices for sitting over or rising from a sanitary appliance;
  - (d) chair lifts or stair lifts designed for use in connection with invalid wheelchairs;
  - (e) hoists and lifters designed for use by invalids;

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- (f) motor vehicles designed or substantially and permanently adapted for the carriage of a person in a wheelchair or on a stretcher and of no more than <sup>F1223</sup>11] other persons;
- (g) equipment and appliances not included in paragraphs (a) to (f) above designed solely for use by a <sup>F1222</sup>disabled] person;
- (h) parts and accessories designed solely for use in or with goods described in paragraphs (a) to (g) above;
- (i) boats designed or substantially and permanently adapted for use by <sup>F1222</sup>disabled] persons.

#### Textual Amendments

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

**F1223** Word in Sch. 8 Pt. II Group 12 item 2(f) substituted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by [S.I. 2001/754](#), [art. 2](#)

- <sup>F1224</sup>2A(1) The supply of a motor vehicle (other than a motor vehicle capable of carrying more than 12 persons including the driver) to a person (“P”) if—
- (a) the motor vehicle is a qualifying motor vehicle by virtue of paragraph (2) or (3),
  - (b) P is a disabled person to whom paragraph (4) applies, and
  - (c) the vehicle is supplied for domestic or P's personal use.
- (2) A motor vehicle is a “qualifying motor vehicle” by virtue of this paragraph if it is designed to enable a person to whom paragraph (4) applies to travel in it.
- (3) A motor vehicle is a “qualifying motor vehicle” by virtue of this paragraph if—
- (a) it has been substantially and permanently adapted to enable a person to whom paragraph (4) applies to travel in it, and
  - (b) the adaptation is necessary to enable P to travel in it.
- (4) This paragraph applies to a disabled person—
- (a) who usually uses a wheelchair, or
  - (b) who is usually carried on a stretcher.

#### Textual Amendments

**F1224** Sch. 8 Pt. II Group 12 items (2A)(2B) substituted for Sch. 8 Pt. II Group 12 items (2A) (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 1\(2\)](#)

- 2B (1) The supply of a qualifying motor vehicle (other than a motor vehicle capable of carrying more than 12 persons including the driver) to a charity for making available, by sale or otherwise to a person to whom paragraph (3) applies, for domestic or the person's personal use.
- (2) A motor vehicle is a “qualifying motor vehicle” for the purposes of this item if it is designed or substantially and permanently adapted to enable a disabled person to whom paragraph (3) applies to travel in it.
- (3) This paragraph applies to a disabled person—

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- (a) who usually uses a wheelchair, or
- (b) who is usually carried on a stretcher.]

**Textual Amendments**

**F1224**Sch. 8 Pt. II Group 12 items (2A)(2B) substituted for Sch. 8 Pt. II Group 12 items (2A) (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 1\(2\)](#)

- 3 The supply to a [<sup>F1222</sup>disabled] person of services of adapting goods to suit his condition.

**Textual Amendments**

**F1222**Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 4 The supply to a charity of services of adapting goods to suit the condition of a [<sup>F1222</sup>disabled] person to whom the goods are to be made available, by sale or otherwise, by the charity.

**Textual Amendments**

**F1222**Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 5 The supply to a [<sup>F1222</sup>disabled] person or to a charity of a service of repair or maintenance of any goods specified in item 2, [<sup>F1225</sup>2A,] 6, 18 or 19 and supplied as described in that item.

**Textual Amendments**

**F1222**Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

**F1225**Word in Sch. 8 Pt. II Group 12 item 5 inserted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by [S.I. 2001/754](#), [art. 4](#)

- 6 The supply of goods in connection with a supply described in item 3, 4 or 5.
- 7 The supply to a [<sup>F1222</sup>disabled] person or to a charity of services necessarily performed in the installation of equipment or appliances (including parts and accessories therefor) specified in item 2 and supplied as described in that item.

**Textual Amendments**

**F1222**Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 8 The supply to a [<sup>F1222</sup>disabled] person of a service of constructing ramps or widening doorways or passages for the purpose of facilitating his entry to or movement within his private residence.

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**Textual Amendments**

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 9 The supply to a charity of a service described in item 8 for the purpose of facilitating a [<sup>F1222</sup>disabled] person's entry to or movement within any building.

**Textual Amendments**

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 10 The supply to a [<sup>F1222</sup>disabled] person of a service of providing, extending or adapting a bathroom, washroom or lavatory in his private residence where such provision, extension or adaptation is necessary by reason of his condition.

**Textual Amendments**

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- [<sup>F1226</sup>11 The supply to a charity of a service of providing, extending or adapting a bathroom, washroom or lavatory for use by [<sup>F1222</sup>disabled] persons—  
(a) in residential accommodation, or  
(b) in a day-centre where at least 20 per cent. of the individuals using the centre are [<sup>F1222</sup>disabled] persons,  
where such provision, extension or adaptation is necessary by reason of the condition of the [<sup>F1222</sup>disabled] persons.]

**Textual Amendments**

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

**F1226** Sch. 8 Pt. II Group 12 item 11 substituted (1.4.2000) by [S.I. 2000/805](#), [art. 3](#)

- 12 The supply to a charity of a service of providing, extending or adapting a washroom or lavatory for use by [<sup>F1222</sup>disabled] persons in a building, or any part of a building, used principally by a charity for charitable purposes where such provision, extension or adaptation is necessary to facilitate the use of the washroom or lavatory by [<sup>F1222</sup>disabled] persons.

**Textual Amendments**

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 13 The supply of goods in connection with a supply described in items 8, 9, 10 or 11.

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- 14 The letting on hire of a motor vehicle for a period of not less than 3 years to a [<sup>F1222</sup>disabled] person in receipt of a disability living allowance by virtue of entitlement to the mobility component[<sup>F1227</sup>, of a personal independence payment by virtue of entitlement to the mobility component, of an armed forces independence payment][<sup>F1228</sup>, of mobility supplement or of disability assistance for children and young people by virtue of entitlement to the mobility component] where the lessor's business consists predominantly of the provision of motor vehicles to such persons.

#### Textual Amendments

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

**F1227** Words in Sch. 8 Pt. II Group 12 item 14 inserted (8.4.2013) by [The Value Added Tax \(Independence Payment\) Order 2013 \(S.I. 2013/601\)](#), arts. 1, [3\(a\)](#)

**F1228** Words in Sch. 8 Pt. II Group 12 item 14 substituted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), [9\(2\)\(a\)](#)

- 15 The sale of a motor vehicle which had been let on hire in the circumstances described in item 14, where such sale constitutes the first supply of the vehicle after the end of the period of such letting.
- 16 The supply to a [<sup>F1222</sup>disabled] person of services necessarily performed in the installation of a lift for the purpose of facilitating his movement between floors within his private residence.

#### Textual Amendments

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 17 The supply to a charity providing a permanent or temporary residence or day-centre for [<sup>F1222</sup>disabled] persons of services necessarily performed in the installation of a lift for the purpose of facilitating the movement of [<sup>F1222</sup>disabled] persons between floors within that building.

#### Textual Amendments

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

- 18 The supply of goods in connection with a supply described in item 16 or 17.
- 19 The supply to a [<sup>F1222</sup>disabled] person for domestic or his personal use, or to a charity for making available to [<sup>F1222</sup>disabled] persons by sale or otherwise for domestic or their personal use, of an alarm system designed to be capable of operation by a [<sup>F1222</sup>disabled] person, and to enable him to alert directly a specified person or a control centre.

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### Textual Amendments

**F1222** Word in Sch. 8 Pt. II Group 12 items 2-19 substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 7 para. 7\(a\)](#)

20 The supply of services necessarily performed by a control centre in receiving and responding to calls from an alarm system specified in item 19.

Notes:

(1) Section 30(3) does not apply to goods forming part of a description of supply in item 1 <sup>F1229</sup>..., nor to other goods forming part of a description of supply in this Group, except where those other goods are <sup>F1230</sup>... imported <sup>F1231</sup>... by a [<sup>F1232</sup>disabled] person for domestic or his personal use, or by a charity for making available to [<sup>F1232</sup>disabled] persons, by sale or otherwise, for domestic or their personal use.

<sup>F1233</sup>(2) .....

[<sup>F1234</sup>(2A) In [<sup>F1235</sup>item 1], “qualifying goods” means any goods designed or adapted for use in connection with any medical or surgical treatment except—

- (a) hearing aids;
- (b) dentures; and
- (c) spectacles and contact lenses.]

[<sup>F1236</sup>(2B) In item 1 “appropriate practitioner” means—

- (a) a registered medical practitioner;
- (b) a person registered in the dentists’ register under the Dentists Act 1984; [ an approved country health professional within the meaning given by <sup>F1237</sup>(ba) regulation 213 of the Human Medicines Regulations 2012;]
- (c) a community practitioner nurse prescriber; [ an EEA health professional within the meaning given by regulation 213 of <sup>F1238</sup>(ca) the Human Medicines Regulations 2012;]
- (d) a nurse independent prescriber;
- (e) an optometrist independent prescriber;
- (f) a pharmacist independent prescriber; [ a physiotherapist independent prescriber; <sup>F1239</sup>(fa)
- (fb) a podiatrist independent prescriber;]
- (g) a supplementary prescriber.

For the purposes of this Note “community practitioner nurse prescriber”, “nurse independent prescriber”, “optometrist independent prescriber”, “pharmacist independent prescriber” [<sup>F1240</sup>], “physiotherapist independent prescriber”, “podiatrist independent prescriber”] and “supplementary prescriber” have the meanings given in [<sup>F1241</sup>regulation 8(1) of the Human Medicines Regulations 2012].

(2C) In item 1 “registered pharmacist” means a person who is—

- (a) registered in the Register of Pharmacists maintained under the Pharmacists and Pharmacy Technicians Order 2007, or

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- (b) registered in the register of pharmaceutical chemists kept under the Pharmacy (Northern Ireland) Order 1976.
- (2D) In item 1 “relevant provision” means—
- (a) article 57 of the Health and Personal Social Services (Northern Ireland) Order 1972;
  - (b) regulation 20 of the National Health Service (Pharmaceutical Services) Regulations 1992;
  - (c) regulation 12 of the Pharmaceutical Services Regulations (Northern Ireland) 1997;
  - (d) paragraph 44 of Schedule 5 to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004;
  - (e) paragraph 15 of Schedule 1 to the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004;
  - (f) paragraphs 47 and 49 of Schedule 6 to the National Health Service (General Medical Services Contracts) Regulations 2004;
  - (g) paragraph 44 of Schedule 5 to the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004;
  - (h) paragraphs 46, 48 and 49 of Schedule 5 to the National Health Service (Personal Medical Services Agreements) Regulations 2004;
  - (i) paragraph 47 of Schedule 6 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004;
  - (j) regulation 60 of the National Health Service (Pharmaceutical Services) Regulations 2005.]
- [<sup>F1242</sup>(3) Any person who is chronically sick or disabled is “disabled” for the purposes of this Group.]
- (4) Item 2 shall not include hearing aids (except hearing aids designed for the auditory training of deaf children), dentures, spectacles and contact lenses but shall be deemed to include—
- (a) clothing, footwear and wigs;
  - (b) invalid wheelchairs, and invalid carriages <sup>F1243</sup> . . .; and
  - (c) renal haemodialysis units, oxygen concentrators, artificial respirators and other similar apparatus.
- (5) The supplies described in items 1 <sup>F1244</sup> . . . and [<sup>F1245</sup>, 2 and 2A] include supplies of services of letting on hire of the goods respectively comprised in those items.
- [<sup>F1246</sup>(5A) In item 1 the reference to personal use does not include any use which is, or involves, a use by or in relation to an individual while that individual, for the purposes of being provided (whether or not by the person making the supply) with medical or surgical treatment, or with any form of care—
- (a) is an in-patient or resident in a relevant institution which is a hospital or nursing home; or
  - (b) is attending at the premises of a relevant institution which is a hospital or nursing home.
- (5B) Subject to Notes (5C) and (5D), in item 2 the reference to domestic or personal use does not include any use which is, or involves, a use by or in relation to a [<sup>F1247</sup>disabled] person while that person, for the purposes of being provided (whether



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or not by the person making the supply) with medical or surgical treatment, or with any form of care—

- (a) is an in-patient or resident in a relevant institution; or
- (b) is attending at the premises of a relevant institution.

(5C) Note (5B) does not apply for the purpose of determining whether any of the following supplies falls within item 2, that is to say—

- (a) a supply to a charity;
- (b) a supply by a person mentioned in any of paragraphs (a) to (g) of Note (5H) of an invalid wheelchair or invalid carriage;
- (c) a supply by a person so mentioned of any parts or accessories designed solely for use in or with an invalid wheelchair or invalid carriage.

(5D) Note (5B) applies for the purpose of determining whether a supply of goods by a person not mentioned in any of paragraphs (a) to (g) of Note (5H) falls within item 2 only if those goods are—

- (a) goods falling within paragraph (a) of that item;
- (b) incontinence products and wound dressings; or
- (c) parts and accessories designed solely for use in or with goods falling within paragraph (a) of this Note.

(5E) Subject to Note (5F), item 2 does not include—

- (a) a supply made in accordance with any agreement, arrangement or understanding (whether or not legally enforceable) to which any of the persons mentioned in paragraphs (a) to (g) of Note (5H) is or has been a party otherwise than as the supplier; or
- (b) any supply the whole or any part of the consideration for which is provided (whether directly or indirectly) by a person so mentioned.

(5F) A supply to a [<sup>F1247</sup>disabled] person of an invalid wheelchair or invalid carriage is excluded from item 2 by Note (5E) only if—

- (a) that Note applies in relation to that supply by reference to a person falling within paragraph (g) of Note (5H); or
- (b) the whole of the consideration for the supply is provided (whether directly or indirectly) by a person falling within any of paragraphs (a) to (f) of Note (5H).

(5G) In Notes (4), (5C) and (5F), the references to an invalid wheelchair and to an invalid carriage do not include references to any mechanically propelled vehicle which is intended or adapted for use on roads.

(5H) The persons referred to in Notes (5C) to (5F) are—

- [<sup>F1248</sup>(a) [<sup>F1249</sup>the National Health Service Commissioning Board or a] or Special Health Authority in England;
  - (aa) a Health Authority, Special Health Authority or Local Health Board in Wales;]
- (b) a Health Board or Special Health Board in Scotland;
- [<sup>F1250</sup>(c) the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 or a Local Commissioning Group in Northern Ireland appointed under section 9 of that Act;]

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- (d) the Common Services Agency for the Scottish Health Service, [<sup>F1251</sup>the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009] and [<sup>F1252</sup>the Isle of Man Department of Health and Social Care];
- (e) a National Health Service trust established under [<sup>F1253</sup>the National Health Service Act 2006 or the National Health Service (Wales) Act 2006]<sup>F1254</sup> or the National Health Service (Scotland) Act 1978 <sup>F1255</sup>,
- [ an NHS foundation trust;]
- <sup>F1256</sup>(<sup>eea</sup>)
- [<sup>F1257</sup>(<sup>ea</sup>) a clinical commissioning group established under section 14D of the National Health Service Act 2006;]
- [<sup>F1258</sup>(<sup>f</sup>) a Health and Social Care trust established under the Health and Personal Social Services (Northern Ireland) Order 1991; or]
- (g) any person not falling within any of paragraphs (a) to (f) above who is engaged in the carrying on of any activity in respect of which a relevant institution is required to be approved, licensed or registered or as the case may be, would be so required if not exempt.
- (5I) In Notes (5A), (5B) and (5H), “relevant institution” means any institution (whether a hospital, nursing home or other institution) which provides care or medical or surgical treatment and is either—
- (a) approved, licensed or registered in accordance with the provisions of any enactment or Northern Ireland legislation; or
- (b) exempted by or under the provisions of any enactment or Northern Ireland legislation from any requirement to be approved, licensed or registered;
- and in this Note the references to the provisions of any enactment or Northern Ireland legislation include references only to provisions which, so far as relating to England, Wales, Scotland or Northern Ireland, have the same effect in every locality within that part of the United Kingdom.]
- [<sup>F1259</sup>(5J) For the purposes of item 11 “residential accommodation” means—
- (a) a residential home, or
- (b) self-contained living accommodation,
- provided as a residence (whether on a permanent or temporary basis or both) for [<sup>F1247</sup>disabled] persons, but does not include an inn, hotel, boarding house or similar establishment or accommodation in any such type of establishment.
- (5K) In this Group “washroom” means a room that contains a lavatory or washbasin (or both) but does not contain a bath or a shower or cooking, sleeping or laundry facilities.]
- <sup>F1260</sup>(5L) .....
- [<sup>F1261</sup>(5M) For the purposes of Notes (5N) to (5S), the supply of a motor vehicle is a “relevant supply” if it is a supply of goods (which is made in the United Kingdom).
- (5N) In the case of a relevant supply of a motor vehicle to a disabled person (“the new supply”), items 2(f) and 2A do not apply if, in the period of 3 years ending with the day on which the motor vehicle is made available to the disabled person—
- (a) a reckonable zero-rated supply of another motor vehicle has been made to that person, or

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- (b) that person has made a <sup>F1262</sup>... reckonable zero-rated importation, of another motor vehicle.
- (5O) If a relevant supply of a motor vehicle is made to a disabled person and—
- (a) any reckonable zero-rated supply of another motor vehicle has previously been made to the person, or
  - (b) any reckonable zero-rated <sup>F1263</sup>... importation of another motor vehicle has previously been made by the person,
- the reckonable zero-rated supply or (as the case may be) reckonable zero-rated importation <sup>F1264</sup>... is treated for the purposes of Note (5N) as not having been made if either of the conditions in Note (5P) is met.
- (5P) The conditions mentioned in Note (5O) are that—
- (a) at the time of the new supply (see Note (5N)) the motor vehicle mentioned in Note (5O)(a) or (b) is unavailable for the disabled person's use because—
    - (i) it has been stolen, or
    - (ii) it has been destroyed or damaged beyond repair (accidentally, or otherwise in circumstances beyond the disabled person's control), or
  - (b) the Commissioners are satisfied that (at the time of the new supply) the motor vehicle mentioned in Note (5O)(a) or (b) has ceased to be suitable for the disabled person's use because of changes in the person's condition.
- (5Q) In the case of a relevant supply of a motor vehicle to a disabled person, items 2(f) and 2A cannot apply unless the supplier—
- (a) gives to the Commissioners, before the end of the period of 12 months beginning with the day on which the supply is made, any information and supporting documentary evidence that may be specified in a notice published by them, and
  - (b) in doing so complies with any requirements as to method set out in the notice.
- (5R) In the case of a relevant supply of a motor vehicle to a disabled person, items 2(f) and 2A cannot apply unless, before the supply is made, the person making the supply has been given a certificate in the required form which—
- (a) states that the supply will not fall within Note (5N), and
  - (b) sets out any other matters, and is accompanied by any supporting documentary evidence, that may be required under a notice published by the Commissioners for the purposes of this Note.
- (5S) The information that may be required under Note (5Q)(a) includes—
- (a) the name and address of the disabled person and details of the person's disability, and
  - (b) any other information that may be relevant for the purposes of that Note,
- (and the matters that may be required under Note (5R)(b) include any information that may be required for the purposes of Note (5Q)).
- (5T) In Notes (5N) to (5S)—
- “in the required form” means complying with any requirements as to form that may be specified in a notice published by the Commissioners;
  - <sup>F1265</sup>...
  - “reckonable zero-rated importation”, in relation to a motor vehicle, means an importation of the vehicle <sup>F1266</sup>... in a case where—

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- (a) VAT is not chargeable on the importation as a result of item 2(f) or 2A, and
  - (b) the importation takes place on or after 1 April 2017;

“reckonable zero-rated supply”, in relation to a motor vehicle, means a supply of the vehicle which—

  - (a) is a supply of goods,
  - (b) is zero-rated as a result of item 2(f) or 2A, and
  - (c) is made on or after 1 April 2017.
- (5U) In items 2A and 2B references to design, or adaptation, of a motor vehicle to enable a person (or a person of any description) to travel in it are to be read as including a reference to design or, as the case may be, adaptation of the motor vehicle to enable the person (or persons of that description) to drive it.]
- (6) Item 14 applies only—
  - (a) where the vehicle is unused at the commencement of the period of letting; and
  - (b) where the consideration for the letting consists wholly or partly of sums paid to the lessor by [<sup>F1267</sup>the Department for Work and Pensions][<sup>F1268</sup>, the Ministry of Defence or the Scottish Ministers] on behalf of the lessee in respect of the mobility component of the disability living allowance<sup>F1269</sup>, the mobility component of the personal independence payment, armed forces independence payment][<sup>F1270</sup>, mobility supplement or the mobility component of disability assistance for children and young people] to which he is entitled.
- (7) In item 14—
  - (a) “disability living allowance” is a disability living allowance within the meaning of section 71 of the <sup>M35</sup>Social Security Contributions and Benefits Act 1992, or section 71 of the <sup>M36</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992; <sup>F1271</sup> ...
  - <sup>F1272</sup>(aa) “personal independence payment” means a personal independence payment under Part 4 of the Welfare Reform Act 2012 or the corresponding provision having effect in Northern Ireland;
  - <sup>F1273</sup>(aaa) [ “disability assistance for children and young people” means a category of disability assistance specifically for children and young people given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018;]
  - (ab) “armed forces independence payment” means an armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004; and]
  - (b) “mobility supplement” is a mobility supplement within the meaning of Article 26A of the <sup>M37</sup>Naval, Military and Air Forces etc. (Disablement and Death Service Pensions Order 1983, Article 25A of the <sup>M38</sup>Personal Injuries (Civilians) Scheme 1983, Article 3 of the <sup>M39</sup>Motor Vehicles (Exemption from Vehicles Excise Duty) Order 1985 or Article 3 of the <sup>M40</sup>Motor Vehicles (Exemption from Vehicles Excise Duty) (Northern Ireland) Order 1985.

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- (8) Where in item 3 or 4 the goods are adapted in accordance with that item prior to their supply to the [<sup>F1247</sup>disabled] person or the charity, an apportionment shall be made to determine the supply of services which falls within item 3 or 4.
- (9) In item 19 or 20, a specified person or control centre is a person or centre who or which—
- (a) is appointed to receive directly calls activated by an alarm system described in that item, and
  - (b) retains information about the [<sup>F1247</sup>disabled] person to assist him in the event of illness, injury or similar emergency.

### Textual Amendments

- F1229** Words in Sch. 8 Pt. II Group 12 Note (1) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, **4**
- F1230** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(5)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1231** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(5)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1232** Word in Sch. 8 Pt. II Group 12 Note (1) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 7(a)**
- F1233** Sch. 8 Pt. II Group 12 Note (2) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **65(a)**
- F1234** Sch. 8 Group 12 Note (2A) inserted (1.1.1998) by S.I. 1998/2744, **art. 5**
- F1235** Words in Sch. 8 Pt. II Group 12 Note (2A) substituted (with effect in accordance with art. 1 of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, **5**
- F1236** Sch. 8 Pt. II Group 12 Notes (2B)-(2D) inserted (with effect in accordance with art. 1 of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, **6**
- F1237** Words in Sch. 8 inserted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2020 \(S.I. 2020/250\)](#), arts. 1(3)(a), **3** (with art. 1(2))
- F1238** Sch. 8 Pt. II Group 12 Note (2B)(ca) inserted (with effect in accordance with art. 1(2)(b) of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2020 \(S.I. 2020/250\)](#), arts. 1(2)(a), **2** (with art. 1(2))
- F1239** Sch. 8 Pt. II Group 12 Note (2B)(fa)(fb) inserted (21.5.2014) by [The Value Added Tax \(Drugs and Medicines\) Order 2014 \(S.I. 2014/1111\)](#), arts. 1(2), **2(a)** (with art. 1(2))
- F1240** Words in Sch. 8 Pt. II Group 12 Note (2B) inserted (21.5.2014) by [The Value Added Tax \(Drugs and Medicines\) Order 2014 \(S.I. 2014/1111\)](#), arts. 1(2), **2(b)** (with art. 1(2))
- F1241** Words in Sch. 8 Pt. II Group 12 Note (2B) substituted (14.8.2012) by [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 42(a)** (with Sch. 32)
- F1242** Sch. 8 Pt. II Group 12 Note (3) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 7(b)**
- F1243** Words in Sch. 8 Pt. II Group 12 Note (4)(b) deleted (1.1.1998) by S.I. 1997/2744, **arts. 1, 6**
- F1244** Word in Sch. 8 Pt. II Group 12 Note (5) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, **7**
- F1245** Sch. 8 Pt. II Group 12 Note (5): Words “and 2” deleted and words “, 2 and 2A” inserted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by S.I. 2001/754, **art. 5**
- F1246** Sch. 8 Pt. II Group 12 Notes (5A)-(5I) inserted (1.1.1998) by S.I. 1997/2744, **arts. 1, 7**

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- F1247** Word in Sch. 8 Pt. II Group 12 Notes (5B)-(9) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by Finance Act 2017 (c. 10), **Sch. 7 para. 7(a)**
- F1248** Sch. 8 Pt. II Group 12 Note (5H)(a)(aa) substituted for Sch. 8 Pt. 2 Group 12 Note (5H)(a) (5.12.2002) by The Value Added Tax (Drugs, Medicines, Aids for the Handicapped and Charities Etc) Order 2002 (S.I. 2002/2813), **art. 3**
- F1249** Words in Sch. 8 Pt. II Group 12 Note (5H)(a) substituted (28.6.2016) by The Value Added Tax (Drugs, Medicines, Aids and Charities, etc.) Order 2016 (S.I. 2016/620), arts. 1, **2(2)(a)**
- F1250** Sch. 8 Pt. II Group 12 Note (5H)(c) substituted (28.6.2016) by The Value Added Tax (Drugs, Medicines, Aids and Charities, etc.) Order 2016 (S.I. 2016/620), arts. 1, **2(2)(b)**
- F1251** Words in Sch. 8 Pt. II Group 12 Note (5H)(d) substituted (28.6.2016) by The Value Added Tax (Drugs, Medicines, Aids and Charities, etc.) Order 2016 (S.I. 2016/620), arts. 1, **2(2)(c)(i)**
- F1252** Words in Sch. 8 Pt. II Group 12 Note (5H)(d) substituted (28.6.2016) by The Value Added Tax (Drugs, Medicines, Aids and Charities, etc.) Order 2016 (S.I. 2016/620), arts. 1, **2(2)(c)(ii)**
- F1253** Words in Sch. 8 Pt. II Group 12 Note (5H) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 174(a)** (with Sch. 3 Pt. 1)
- F1254** 1990 c.19.
- F1255** 1978 c.29.
- F1256** Sch. 8 Pt. II Group 12 Note (5H)(eaa) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 4 para. 98**; S.I. 2004/759, art. 2
- F1257** Sch. 8 Pt. II Group 12 Note (5H)(ea) substituted (28.6.2016) by The Value Added Tax (Drugs, Medicines, Aids and Charities, etc.) Order 2016 (S.I. 2016/620), arts. 1, **2(2)(d)**
- F1258** Sch. 8 Pt. II Group 12 Note (5H)(f) substituted (28.6.2016) by The Value Added Tax (Drugs, Medicines, Aids and Charities, etc.) Order 2016 (S.I. 2016/620), arts. 1, **2(2)(e)**
- F1259** Sch. 8 Pt. II Group 12 Notes (5J)(5K) inserted (1.4.2000) by S.I. 2000/805, **art. 4**
- F1260** Sch. 8 Pt. II Group 12 Notes (5L) omitted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by virtue of Finance Act 2017 (c. 10), **Sch. 7 para. 2(a)**
- F1261** Sch. 8 Pt. II Group 12 Notes (5M)-(5U) inserted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by Finance Act 2017 (c. 10), **Sch. 7 para. 2(b)**
- F1262** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 94(5)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1263** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 94(5)(c)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1264** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 94(5)(c)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1265** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 94(5)(d)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1266** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 94(5)(d)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1267** Words in Sch. 8 Pt. II Group 12 Note (6)(b) substituted (27.6.2002) by The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 (S.I. 2002/1397), art. 12, **Sch. para. 11**
- F1268** Words in Sch. 8 Pt. II Group 12 Note 6(b) substituted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **9(2)(b)(i)**

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- F1269** Words in Sch. 8 Pt. II Group 12 Note (6)(b) inserted (8.4.2013) by [The Value Added Tax \(Independence Payment\) Order 2013 \(S.I. 2013/601\)](#), arts. 1, **3(b)**
- F1270** Words in Sch. 8 Pt. II Group 12 Note (6)(b) substituted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), **9(2)(b)(ii)**
- F1271** Word in Sch. 8 Pt. II Group 12 Note (7)(a) omitted (8.4.2013) by virtue of [The Value Added Tax \(Independence Payment\) Order 2013 \(S.I. 2013/601\)](#), arts. 1, **3(c)**
- F1272** Sch. 8 Pt. II Group 12 Note (7)(aa)(ab) inserted (8.4.2013) by [The Value Added Tax \(Independence Payment\) Order 2013 \(S.I. 2013/601\)](#), arts. 1, **3(c)**
- F1273** Sch. 8 Pt. II Group 12 Note (7)(aaa) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\) \(Consequential Provision and Modifications\) Order 2021 \(S.I. 2021/886\)](#), arts. 1(2), **9(2)(c)**

#### **Modifications etc. (not altering text)**

- C110** Sch. 8 Pt. II Group 12 Note (2D)(j) modified (E.) (1.9.2012) by [The National Health Service \(Pharmaceutical Services\) Regulations 2012 \(S.I. 2012/1909\)](#), reg. 1, **Sch. 7 para. 15**

#### **Marginal Citations**

- M35** 1992 c. 4.  
**M36** 1992 c. 7.  
**M37** S.I.1983/883.  
**M38** S.I.1983/686.  
**M39** S.I.1985/722.  
**M40** S.I.1985/723.

#### **Textual Amendments**

- F1229** Words in Sch. 8 Pt. II Group 12 Note (1) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, **4**
- F1230** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(5)(a)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1231** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(5)(a)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1232** Word in Sch. 8 Pt. II Group 12 Note (1) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 7(a)**
- F1233** Sch. 8 Pt. II Group 12 Note (2) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **65(a)**
- F1234** Sch. 8 Group 12 Note (2A) inserted (1.1.1998) by S.I. 1998/2744, **art. 5**
- F1235** Words in Sch. 8 Pt. II Group 12 Note (2A) substituted (with effect in accordance with art. 1 of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, **5**
- F1236** Sch. 8 Pt. II Group 12 Notes (2B)-(2D) inserted (with effect in accordance with art. 1 of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, **6**
- F1237** Words in Sch. 8 inserted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2020 \(S.I. 2020/250\)](#), arts. 1(3)(a), **3** (with art. 1(2))
- F1238** Sch. 8 Pt. II Group 12 Note (2B)(ca) inserted (with effect in accordance with art. 1(2)(b) of the amending S.I.) by [The Value Added Tax \(Drugs and Medicines\) Order 2020 \(S.I. 2020/250\)](#), arts. 1(2)(a), **2** (with art. 1(2))

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- F1239**Sch. 8 Pt. II Group 12 Note (2B)(fa)(fb) inserted (21.5.2014) by [The Value Added Tax \(Drugs and Medicines\) Order 2014 \(S.I. 2014/1111\)](#), arts. 1(2), **2(a)** (with art. 1(2))
- F1240**Words in Sch. 8 Pt. II Group 12 Note (2B) inserted (21.5.2014) by [The Value Added Tax \(Drugs and Medicines\) Order 2014 \(S.I. 2014/1111\)](#), arts. 1(2), **2(b)** (with art. 1(2))
- F1241**Words in Sch. 8 Pt. II Group 12 Note (2B) substituted (14.8.2012) by [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 42(a)** (with Sch. 32)
- F1242**Sch. 8 Pt. II Group 12 Note (3) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 7(b)**
- F1243**Words in Sch. 8 Pt. II Group 12 Note (4)(b) deleted (1.1.1998) by [S.I. 1997/2744](#), arts. 1, 6
- F1244**Word in Sch. 8 Pt. II Group 12 Note (5) omitted (with effect in accordance with art. 1 of the amending S.I.) by virtue of [The Value Added Tax \(Drugs and Medicines\) Order 2009 \(S.I. 2009/2972\)](#), arts. 1, 7
- F1245**Sch. 8 Pt. II Group 12 Note (5): Words “and 2” deleted and words “, 2 and 2A” inserted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by [S.I. 2001/754](#), art. 5
- F1246**Sch. 8 Pt. II Group 12 Notes (5A)-(5I) inserted (1.1.1998) by [S.I. 1997/2744](#), arts. 1, 7
- F1247**Word in Sch. 8 Pt. II Group 12 Notes (5B)-(9) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 7(a)**
- F1248**Sch. 8 Pt. II Group 12 Note (5H)(a)(aa) substituted for Sch. 8 Pt. 2 Group 12 Note (5H)(a) (5.12.2002) by [The Value Added Tax \(Drugs, Medicines, Aids for the Handicapped and Charities Etc\) Order 2002 \(S.I. 2002/2813\)](#), art. 3
- F1249**Words in Sch. 8 Pt. II Group 12 Note (5H)(a) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(2)(a)**
- F1250**Sch. 8 Pt. II Group 12 Note (5H)(c) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(2)(b)**
- F1251**Words in Sch. 8 Pt. II Group 12 Note (5H)(d) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(2)(c)(i)**
- F1252**Words in Sch. 8 Pt. II Group 12 Note (5H)(d) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(2)(c)(ii)**
- F1253**Words in Sch. 8 Pt. II Group 12 Note (5H) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 1 para. 174(a)** (with Sch. 3 Pt. 1)
- F1254**1990 c.19.
- F1255**1978 c.29.
- F1256**Sch. 8 Pt. II Group 12 Note (5H)(eaa) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 4 para. 98**; [S.I. 2004/759](#), art. 2
- F1257**Sch. 8 Pt. II Group 12 Note (5H)(ea) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(2)(d)**
- F1258**Sch. 8 Pt. II Group 12 Note (5H)(f) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(2)(e)**
- F1259**Sch. 8 Pt. II Group 12 Notes (5J)(5K) inserted (1.4.2000) by [S.I. 2000/805](#), art. 4
- F1260**Sch. 8 Pt. II Group 12 Notes (5L) omitted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by virtue of [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 2(a)**
- F1261**Sch. 8 Pt. II Group 12 Notes (5M)-(5U) inserted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 2(b)**
- F1262**Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(5)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)
- F1263**Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(5)(c)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)
- F1264**Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(5)(c)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in [S.I.](#)



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2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1265** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 94(5)(d)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1266** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 94(5)(d)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1267** Words in Sch. 8 Pt. II Group 12 Note (6)(b) substituted (27.6.2002) by The Secretaries of State for Education and Skills and for Work and Pensions Order 2002 (S.I. 2002/1397), art. 12, **Sch. para. 11**

**F1268** Words in Sch. 8 Pt. II Group 12 Note 6(b) substituted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **9(2)(b)(i)**

**F1269** Words in Sch. 8 Pt. II Group 12 Note (6)(b) inserted (8.4.2013) by The Value Added Tax (Independence Payment) Order 2013 (S.I. 2013/601), arts. 1, **3(b)**

**F1270** Words in Sch. 8 Pt. II Group 12 Note (6)(b) substituted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **9(2)(b)(ii)**

**F1271** Word in Sch. 8 Pt. II Group 12 Note (7)(a) omitted (8.4.2013) by virtue of The Value Added Tax (Independence Payment) Order 2013 (S.I. 2013/601), arts. 1, **3(c)**

**F1272** Sch. 8 Pt. II Group 12 Note (7)(aa)(ab) inserted (8.4.2013) by The Value Added Tax (Independence Payment) Order 2013 (S.I. 2013/601), arts. 1, **3(c)**

**F1273** Sch. 8 Pt. II Group 12 Note (7)(aaa) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), **9(2)(c)**

#### **Modifications etc. (not altering text)**

**C110** Sch. 8 Pt. II Group 12 Note (2D)(j) modified (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), reg. 1, **Sch. 7 para. 15**

#### **Marginal Citations**

**M35** 1992 c. 4.

**M36** 1992 c. 7.

**M37** S.I.1983/883.

**M38** S.I.1983/686.

**M39** S.I.1985/722.

**M40** S.I.1985/723.

## **GROUP 13— IMPORTS, EXPORTS ETC.**

*Item No.*

[<sup>F1274</sup>1 The supply of imported goods before a Customs declaration has been made under Part 1 of TCTA 2018 in respect of those goods where the supplier and the purchaser of the goods have agreed that the purchaser will make the Customs declaration.]

*Status: Point in time view as at 26/07/2021.*

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### Textual Amendments

**F1274** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(6)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- 2 The supply to or by an overseas authority, overseas body or overseas trader, charged with the management of any defence project which is the subject of an international collaboration arrangement or under direct contract with any government or government-sponsored international body participating in a defence project under such an arrangement, of goods or services in the course of giving effect to that arrangement.
- 3 The supply to an overseas authority, overseas body or overseas trader of jigs, patterns, templates, dies, punches and similar machine tools used in the United Kingdom solely for the manufacture of goods for export<sup>F1275</sup> ....

### Textual Amendments

**F1275** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### Notes:

- (1) An “international collaboration arrangement” means any arrangement which—
  - (a) is made between the United Kingdom Government and the government of one or more other countries, or any government-sponsored international body for collaboration in a joint project of research, development or production; and
  - (b) includes provision for participating governments to relieve the cost of the project from taxation.
- (2) “Overseas authority” means any country other than the United Kingdom or any part of or place in such a country or the government of any such country, part or place.
- (3) “Overseas body” means a body established outside the United Kingdom.
- (4) “Overseas trader” means a person who carries on a business and has his principal place of business outside the United Kingdom.
- (5) Item 3 does not apply where the overseas authority, overseas body or overseas trader is a taxable person<sup>F1276</sup> ....

### Textual Amendments

**F1276** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(6)(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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#### Textual Amendments

**F1276** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 94\(6\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

### <sup>F1277</sup>GROUP 14— TAX-FREE SHOPS

#### Textual Amendments

**F1277** Sch. 8 Pt. II Group 14 deleted (1.7.1999) by [S.I. 1999/1642](#), [art. 2\(b\)](#)

### GROUP 15— CHARITIES ETC.

[<sup>F1279</sup>1 The sale, or letting on hire, by a charity of any goods donated to it for—  
(a) sale,  
(b) letting,  
(c) sale or letting,  
(d) sale or export,  
(e) letting or export, or  
(f) sale, letting or export.]

#### Textual Amendments

**F1279** Sch. 8 Pt. II Group 15 items 1, 1A, 2 substituted for items 1, 2 (1.4.2000) by [S.I. 2000/805](#), [art. 6](#)

<sup>F1280</sup>1A The sale, or letting on hire, by a taxable person of any goods donated to him for—  
(a) sale,  
(b) letting,  
(c) sale or letting,  
(d) sale or export,  
(e) letting or export, or  
(f) sale, letting or export,  
if he is a profits-to-charity person in respect of the goods.

#### Textual Amendments

**F1280** Sch. 8 Pt. II Group 15 items 1, 1A, 2 substituted for items 1, 2 (1.4.2000) by [S.I. 2000/805](#), [art. 6](#)

[<sup>F1281</sup>2 The donation of any goods for any one or more of the following purposes—  
(a) sale by a charity or a taxable person who is a profits-to-charity person in respect of the goods;  
(b) export by a charity or such a taxable person;  
(c) letting by a charity or such a taxable person.]

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#### Textual Amendments

**F1281** Sch. 8 Pt. II Group 15 items 1, 1A, 2 substituted for items 1, 2 (1.4.2000) by [S.I. 2000/805](#), **art. 6**

3 The export of any goods by a charity <sup>F1282</sup>....

#### Textual Amendments

**F1282** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(7)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and 2020 c. 26, [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)

4 The supply of any relevant goods for donation to a nominated eligible body where the goods are purchased with funds provided by a charity or from voluntary contributions.

5 The supply of any relevant goods to an eligible body which pays for them with funds provided by a charity or from voluntary contributions or to an eligible body which is a charitable institution providing care or medical or surgical treatment for [<sup>F1283</sup>disabled] persons.

#### Textual Amendments

**F1283** Word in Sch. 8 Pt. II Group 15 item 5 substituted (with effect in accordance with [Sch. 7 para. 9](#) of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 8(a)**

6 Repair and maintenance of relevant goods owned by an eligible body.

7 The supply of goods in connection with the supply described in item 6.

[<sup>F1284</sup>g The supply to a charity of a right to promulgate an advertisement by means of a medium of communication with the public.]

#### Textual Amendments

**F1284** Sch. 8 Pt. II Group 15 items 8-8C substituted for item 8 (1.4.2000) by [S.I. 2000/805](#), **art. 7**

<sup>F1285</sup>gA A supply to a charity that consists in the promulgation of an advertisement by means of such a medium.

#### Textual Amendments

**F1285** Sch. 8 Pt. II Group 15 items 8-8C substituted for item 8 (1.4.2000) by [S.I. 2000/805](#), **art. 7**

<sup>F1286</sup>gB The supply to a charity of services of design or production of an advertisement that is, or was intended to be, promulgated by means of such a medium.

#### Textual Amendments

**F1286** Sch. 8 Pt. II Group 15 items 8-8C substituted for item 8 (1.4.2000) by [S.I. 2000/805](#), **art. 7**

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<sup>F1287</sup>8C The supply to a charity of goods closely related to a supply within item 8B.

**Textual Amendments**

**F1287**Sch. 8 Pt. II Group 15 items 8-8C substituted for item 8 (1.4.2000) by [S.I. 2000/805, art. 7](#)

9 The supply to a charity, providing care or medical or surgical treatment for human beings or animals, or engaging in medical or veterinary research, of a medicinal product [<sup>F1288</sup>or veterinary medicinal product] where the supply is solely for use by the charity in such care, treatment or research.

**Textual Amendments**

**F1288**Words in Sch. 8 Pt. II Group 15 item 9 inserted (1.10.2006) by [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\), reg. 1, Sch. 9 para. 10\(a\)](#) (with regs. 2(4), 3)

10 The supply to a charity of a substance directly used for synthesis or testing in the course of medical or veterinary research.

Notes:

- <sup>F1289</sup>(1) Item 1 or 1A does not apply unless the sale or letting—
- (a) takes place as a result of the goods having been made available—
    - (i) to two or more specified persons, or
    - (ii) to the general public,for purchase or hire (whether so made available in a shop or elsewhere), and
  - (b) does not take place as a result of any arrangements (whether legally binding or not) relating to the goods and entered into, before the goods were made so available, by—
    - (i) each of the parties to the sale or letting, or
    - (ii) the donor of the goods and either or both of those parties.
- (1A) For the purposes of items 1, 1A and 2, goods are donated for letting only if they are donated for—
- (a) letting, and
  - (b) re-letting after the end of any first or subsequent letting, and
  - (c) all or any of—
    - (i) sale,
    - (ii) export, or
    - (iii) disposal as waste,if not, or when no longer, used for letting.

(1B) Items 1 and 1A do not include (and shall be treated as having not included) any sale, or letting on hire, of particular donated goods if the goods, at any time after they are donated but before they are sold, exported or disposed of as waste, are whilst unlet used for any purpose other than, or in addition to, that of being available for purchase, hire or export.

(1C) In Note (1) “specified person” means a person who—

    - (a) is [<sup>F1290</sup>disabled], or
    - (b) is entitled to any one or more of the specified benefits, or

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- (c) is both [<sup>F1290</sup>disabled] and so entitled.
- (1D) For the purposes of Note (1C) the specified benefits are—
- (a) income support under Part VII of the Social Security Contributions and Benefits Act 1992 <sup>F1291</sup> or Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 <sup>F1292</sup>;
  - (b) housing benefit under Part VII of the Social Security Contributions and Benefits Act 1992 or Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - (c) council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992;
  - (d) an income-based jobseeker’s allowance within the meaning of section 1(4) of the Jobseekers Act 1995 <sup>F1293</sup> or article 3(4) of the Jobseekers (Northern Ireland) Order 1995 <sup>F1294</sup>;
  - <sup>F1295</sup>(e) any element of child tax credit other than the family element; <sup>F1296</sup> ...
  - (f) working tax credit.]]<sup>F1297</sup>and
  - (g) universal credit under Part 1 of the Welfare Reform Act 2012 [<sup>F1298</sup>or Part 2 of the Welfare Reform (Northern Ireland) Order 2015].]
- (1E) For the purposes of items 1A and 2 a taxable person is a “profits-to-charity” person in respect of any goods if—
- (a) he has agreed in writing (whether or not contained in a deed) to transfer to a charity his profits from supplies and lettings of the goods, or
  - (b) his profits from supplies and lettings of the goods are otherwise payable to a charity.
- (1F) In items 1, 1A and 2, and any Notes relating to any of those items, “goods” means goods (and, in particular, does not include anything that is not goods even though provision made by or under an enactment provides for a supply of that thing to be, or be treated as, a supply of goods).]
- (2) “Animals” includes any species of the animal kingdom.
- (3) “Relevant goods” means—
- (a) medical, scientific, computer, video, sterilising, laboratory or refrigeration equipment for use in medical or veterinary research, training, diagnosis or treatment;
  - (b) ambulances;
  - (c) parts or accessories for use in or with goods described in paragraph (a) or (b) above;
  - (d) goods of a kind described in item 2 of Group 12 of this Schedule;
  - (e) motor vehicles (other than vehicles with more than 50 seats) designed or substantially and permanently adapted for the safe carriage of a [<sup>F1290</sup>disabled] person in a wheelchair provided that—
    - (i) in the case of vehicles with more than 16 but fewer than 27 seats, the number of persons for which such provision shall exist shall be at least 2;
    - (ii) in the case of vehicles with more than 26 but fewer than 37 seats, the number of persons for which such provision shall exist shall be at least 3;

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- (iii) in the case of vehicles with more than 36 but fewer than 47 seats, the number of persons for which such provision shall exist shall be at least 4;
        - (iv) in the case of vehicles with more than 46 seats, the number of persons for which such provision shall exist shall be at least 5;
        - (v) there is either a fitted electrically or hydraulically operated lift or, in the case of vehicles with fewer than 17 seats, a fitted ramp to provide access for a passenger in a wheelchair;
      - (f) motor vehicles (with more than 6 but fewer than 51 seats) for use by an eligible body providing care for blind, deaf, mentally [<sup>F1290</sup>disabled] or terminally sick persons mainly to transport such persons;
      - (g) telecommunication, aural, visual, light enhancing or heat detecting equipment (not being equipment ordinarily supplied for private or recreational use) solely for use for the purpose of rescue or first aid services undertaken by a charitable institution providing such services.
- (4) “Eligible body” means—
  - [<sup>F1299</sup>(a) [<sup>F1300</sup>the National Health Service Commissioning Board or a] or Special Health Authority in England;
  - (aa) a Health Authority, Special Health Authority or Local Health Board in Wales;]
  - (b) a Health Board in Scotland;
  - [<sup>F1301</sup>(c) the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 or a Local Commissioning Group in Northern Ireland appointed under section 9 of that Act;]
  - (d) a hospital whose activities are not carried on for profit;
  - (e) a research institution whose activities are not carried on for profit;
  - (f) a charitable institution providing care or medical or surgical treatment for [<sup>F1290</sup>disabled] persons;
  - (g) the Common Services Agency for the Scottish Health Service, [<sup>F1302</sup>the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009] or the [<sup>F1303</sup>the Isle of Man Department of Health and Social Care];
  - (h) a charitable institution providing rescue or first-aid services;
  - (i) a National Health Service trust established under Part I of the <sup>M43</sup>National Health Service and Community Care Act 1990 or the <sup>M44</sup>National Health Service (Scotland) Act 1978.
  - [<sup>F1304</sup>(j) a clinical commissioning group established under section 14D of the National Health Service Act 2006;]
- [<sup>F1305</sup>(4A) Subject to Note (5B), a charitable institution shall not be regarded as providing care or medical or surgical treatment for [<sup>F1290</sup>disabled] persons unless—
  - (a) it provides care or medical or surgical treatment in a relevant establishment; and
  - (b) the majority of the persons who receive care or medical or surgical treatment in that establishment are [<sup>F1290</sup>disabled] persons.
- (4B) “Relevant establishment” means—

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- (a) a day-centre, other than a day-centre which exists primarily as a place for activities that are social or recreational or both; or
  - (b) an institution which is—
    - (i) approved, licensed or registered in accordance with the provisions of any enactment or Northern Ireland legislation; or
    - (ii) exempted by or under the provisions of any enactment or Northern Ireland legislation from any requirement to be approved, licensed or registered;
 and in paragraph (b) above the references to the provisions of any enactment or Northern Ireland legislation are references only to provisions which, so far as relating to England, Wales, Scotland or Northern Ireland, have the same effect in every locality within that part of the United Kingdom.]
- [<sup>F1306</sup>(5) Any person who is chronically sick or disabled is “disabled” for the purposes of this Group.]
- [<sup>F1307</sup>(5A) Subject to Note (5B), items 4 to 7 do not apply where the eligible body falls within Note (4)(f) unless the relevant goods are or are to be used in a relevant establishment in which that body provides care or medical or surgical treatment to persons the majority of whom are [<sup>F1308</sup>disabled].
- (5B) Nothing in Note (4A) or (5A) shall prevent a supply from falling within items 4 to 7 where—
- (a) the eligible body provides medical care to [<sup>F1308</sup>disabled] persons in their own homes;
  - (b) the relevant goods fall within Note (3)(a) or are parts or accessories for use in or with goods described in Note (3)(a); and
  - (c) those goods are or are to be used in or in connection with the provision of that care.]
- (6) Item 4 does not apply where the donee of the goods is not a charity and has contributed in whole or in part to the funds for the purchase of the goods.
- (7) Item 5 does not apply where the body to whom the goods are supplied is not a charity and has contributed in whole or in part to the funds for the purchase of the goods.
- (8) Items 6 and 7 do not apply unless—
- (a) the supply is paid for with funds which have been provided by a charity or from voluntary contributions, and
  - (b) in a case where the owner of the goods repaired or maintained is not a charity, it has not contributed in whole or in part to those funds.
- (9) Items 4 and 5 include the letting on hire of relevant goods; accordingly in items 4, 5 and 6 and the notes relating thereto, references to the purchase or ownership of goods shall be deemed to include references respectively to their hiring and possession.
- (10) Item 5 includes computer services by way of the provision of computer software solely for use in medical research, diagnosis or treatment.
- [<sup>F1309</sup>(10A) Neither of items 8 and 8A includes a supply where any of the members of the public (whether individuals or other persons) who are reached through the medium are selected by or on behalf of the charity.



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For this purpose “selected” includes selected by address (whether postal address or telephone number, e-mail address or other address for electronic communications purposes) or at random.

(10B) None of items 8 to 8C includes a supply used to create, or contribute to, a website that is the charity’s own.

For this purpose a website is a charity’s own even though hosted by another person.

(10C) Neither of items 8B and 8C includes a supply to a charity that is used directly by the charity to design or produce an advertisement.]

(11) In item 9—

[<sup>F1310</sup>(a) “medicinal product” has the meaning assigned to it by regulation 2(1) of the Human Medicines Regulations 2012;]

<sup>F1311</sup>(b) .....

<sup>F1311</sup>(c) .....

[<sup>F1312</sup>(d) “veterinary medicinal product” has the meaning assigned to it by regulation 2 of the Veterinary Medicines Regulations 2006.]

(12) In items 9 and 10 “substance” and “ingredient” have the meanings assigned to them by section 132 of the Medicines Act 1968.

#### Textual Amendments

**F1289**Sch. 8 Pt. II Group 15 Notes (1)-(1F) substituted for Note (1) (1.4.2000) by [S.I. 2000/805](#), **art. 8**

**F1290**Word in Sch. 8 Pt. II Group 15 Notes (1C)-(4A) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 8(a)**

**F1291**1992 c. 4.

**F1292**1992 c. 7.

**F1293**1995 c. 18; definition amended by paragraph 2(4)(a) of Schedule 7 to the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#).

**F1294**[S.I. 1995/2705 \(N.I. 15\)](#); definition amended by the [Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(S.I. 1999/3147 \(N.I. 11\)\)](#).

**F1295**Sch. 8 Pt. II Group 15 Note (1D)(e)(f) substituted (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, **Sch. 3 para. 49**; [S.I. 2003/962](#), art. 2(3)(d)(iii)

**F1296**Word in Sch. 8 Pt. II Group 15 Note (1D)(e) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **9(3)(a)**

**F1297**Sch. 8 Pt. II Group 15 Note (1D)(g) and word inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **9(3)(b)**

**F1298**Words in Sch. 8 Pt. II Group 15 Note (1D) inserted (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **5(3)**

**F1299**Sch. 8 Pt. II Group 15 Notes (4)(a)(aa) substituted (5.12.2002) for Note (4)(a) by [The Value Added Tax \(Drugs, Medicines, Aids for the Handicapped and Charities Etc\) Order 2002 \(S.I.2002/2813\)](#), **art. 4**

**F1300**Words in Sch. 8 Pt. II Group 15 Note (4)(a) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(a)**

**F1301**Sch. 8 Pt. II Group 15 Note (4)(c) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(b)**

**F1302**Words in Sch. 8 Pt. II Group 15 Note (4)(g) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(c)(i)**

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- F1303** Words in Sch. 8 Pt. II Group 15 Note (4)(g) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(c)(ii)**
- F1304** Sch. 8 Pt. II Group 15 Note (4)(j) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(d)**
- F1305** Sch. 8 Pt. II Group 15 Notes (4A)(4B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by S.I. 1997 c. 16, s. **34(1)(3)**
- F1306** Sch. 8 Pt. II Group 15 Note (5) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 8(b)**
- F1307** Sch. 8 Pt. II Group 15 Note (5A)(5B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by S.I. 1997 c. 16, s. **34(2)(3)**
- F1308** Word in Sch. 8 Pt. II Group 15 Notes (5A)(5B) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 8(a)**
- F1309** Sch. 8 Pt. II Group 15 Notes (10A)-(10C) inserted (1.4.2000) by S.I. 2000/805, **art. 9**
- F1310** Sch. 8 Pt. II Group 15 Note (11)(a) substituted (14.8.2012) by [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 42(b)(i)** (with Sch. 32)
- F1311** Sch. 8 Pt. II Group 15 Note (11)(b)(c) omitted (14.8.2012) by virtue of [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 42(b)(ii)** (with Sch. 32)
- F1312** Sch. 8 Pt. II Group 15 Note 11(d) added (1.10.2006) by [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\)](#), reg. 1, **Sch. 9 para. 10(b)(ii)** (with regs. 2(4), 3)

#### Marginal Citations

- M43** 1990 c. 19.  
**M44** 1978 c. 29.

#### Textual Amendments

- F1289** Sch. 8 Pt. II Group 15 Notes (1)-(1F) substituted for Note (1) (1.4.2000) by S.I. 2000/805, **art. 8**
- F1290** Word in Sch. 8 Pt. II Group 15 Notes (1C)-(4A) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 8(a)**
- F1291** 1992 c. 4.
- F1292** 1992 c. 7.
- F1293** 1995 c. 18; definition amended by paragraph 2(4)(a) of Schedule 7 to the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#).
- F1294** S.I. 1995/2705 (N.I. 15); definition amended by the [Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(S.I. 1999/3147 \(N.I. 11\)\)](#).
- F1295** Sch. 8 Pt. II Group 15 Note (1D)(e)(f) substituted (6.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, **Sch. 3 para. 49**; S.I. 2003/962, art. 2(3)(d)(iii)
- F1296** Word in Sch. 8 Pt. II Group 15 Note (1D)(e) omitted (29.4.2013) by virtue of [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **9(3)(a)**
- F1297** Sch. 8 Pt. II Group 15 Note (1D)(g) and word inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **9(3)(b)**
- F1298** Words in Sch. 8 Pt. II Group 15 Note (1D) inserted (N.I.) (coming into force in accordance with reg. 1(1) of the amending Rule) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/236\)](#), regs. 1(1), **5(3)**
- F1299** Sch. 8 Pt. II Group 15 Notes (4)(a)(aa) substituted (5.12.2002) for Note (4)(a) by [The Value Added Tax \(Drugs, Medicines, Aids for the Handicapped and Charities Etc\) Order 2002 \(S.I.2002/2813\)](#), **art. 4**
- F1300** Words in Sch. 8 Pt. II Group 15 Note (4)(a) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(a)**
- F1301** Sch. 8 Pt. II Group 15 Note (4)(c) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(b)**

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- F1302** Words in Sch. 8 Pt. II Group 15 Note (4)(g) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(c)(i)**
- F1303** Words in Sch. 8 Pt. II Group 15 Note (4)(g) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(c)(ii)**
- F1304** Sch. 8 Pt. II Group 15 Note (4)(j) substituted (28.6.2016) by [The Value Added Tax \(Drugs, Medicines, Aids and Charities, etc.\) Order 2016 \(S.I. 2016/620\)](#), arts. 1, **2(3)(d)**
- F1305** Sch. 8 Pt. II Group 15 Notes (4A)(4B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by [S.I. 1997 c. 16, s. 34\(1\)\(3\)](#)
- F1306** Sch. 8 Pt. II Group 15 Note (5) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 8(b)**
- F1307** Sch. 8 Pt. II Group 15 Note (5A)(5B) inserted (19.3.1997 with effect as mentioned in s. 34(3) of the amending Act) by [S.I. 1997 c. 16, s. 34\(2\)\(3\)](#)
- F1308** Word in Sch. 8 Pt. II Group 15 Notes (5A)(5B) substituted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), **Sch. 7 para. 8(a)**
- F1309** Sch. 8 Pt. II Group 15 Notes (10A)-(10C) inserted (1.4.2000) by [S.I. 2000/805, art. 9](#)
- F1310** Sch. 8 Pt. II Group 15 Note (11)(a) substituted (14.8.2012) by [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 42(b)(i)** (with Sch. 32)
- F1311** Sch. 8 Pt. II Group 15 Note (11)(b)(c) omitted (14.8.2012) by virtue of [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 42(b)(ii)** (with Sch. 32)
- F1312** Sch. 8 Pt. II Group 15 Note 11(d) added (1.10.2006) by [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\)](#), reg. 1, **Sch. 9 para. 10(b)(ii)** (with regs. 2(4), 3)

#### Marginal Citations

- M43** 1990 c. 19.  
**M44** 1978 c. 29.

## GROUP 16— CLOTHING AND FOOTWEAR

### Item No.

- 1 Articles designed as clothing or footwear for young children and not suitable for older persons.
- 2 The supply to a person for use otherwise than by employees of his of protective boots and helmets for industrial use.
- 3 Protective helmets for wear by a person driving or riding a motor bicycle [<sup>F1313</sup>or riding a pedal cycle].

#### Textual Amendments

- F1313** Words in Sch. 8 Pt. II Group 16 item 3 inserted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by [S.I. 2001/732, art. 3](#)

### Notes:

- (1) “Clothing” includes hats and other headgear.
- (2) Item 1 does not include articles of clothing made wholly or partly of fur skin, except—
  - (a) headgear;
  - (b) gloves;

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- (c) buttons, belts and buckles;
  - (d) any garment merely trimmed with fur skin unless the trimming has an area greater than one-fifth of the area of the outside material or, in the case of a new garment, represents a cost to the manufacturer greater than the cost to him of the other components.
- (3) “Fur skin” means any skin with fur, hair or wool attached except—
- (a) rabbit skin;
  - (b) woolled sheep or lamb skin; and
  - (c) the skin, if neither tanned nor dressed, of bovine cattle (including buffalo), equine animals, goats or kids (other than Yemen, Mongolian and Tibetan goats or kids), swine (including peccary), chamois, gazelles, deer or dogs.
- (4) <sup>F1314</sup>Item 2 applies only where the goods to which it refers are—
- (a) goods which—
    - (i) are manufactured to standards approved by the British Standards Institution; and
    - (ii) bear a marking indicating compliance with the specification relating to such goods; or
  - (b) goods which—
    - <sup>F1315</sup>(i) are manufactured to standards which satisfy the requirements of regulation 8(2) of the Personal Protective Equipment Regulations 2002, and
    - (ii) bear the mark of conformity required by that regulation.]
- <sup>F1316</sup>(4A) Item 3 does not apply to a protective helmet unless—
- (a) it is of a type that on 30th June 2000 is prescribed by regulations made under section 17 of the Road Traffic Act 1988 <sup>F1317</sup> (types of helmet recommended as affording protection to persons on or in motor cycles from injury in the event of accident); or
  - (b) it is of a type that—
    - <sup>F1318</sup>(i) is manufactured to standards which satisfy the requirements of regulation 8(2) of the Personal Protective Equipment Regulations 2002, and
    - (ii) bears the mark of conformity required by that regulation.]]
- (5) Items 1, 2 and 3 include the supply of the services described in paragraphs 1(1) and <sup>F1319</sup>5(4)] of Schedule 4 in respect of goods comprised in the items, but, in the case of goods comprised in item 2, only if the goods are for use otherwise than by employees of the person to whom the services are supplied.

#### Textual Amendments

**F1314** Words in Sch. 8 Pt. II Group 16 Note (4) substituted (30.6.2000) by [S.I. 2000/1517](#), [art. 3](#)

**F1315** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), [Sch. 8 para. 94\(8\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

**F1316** Sch. 8 Pt. II Group 16 Note (4A) substituted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by [S.I. 2001/732](#), [art. 6](#)

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**F1317** 1988 c. 52, the current standards are laid down by the Secretary of State for the Environment, Transport and the Regions in the [Motor Cycles \(Protective Helmets\) Regulations 1998 \(S.I. 1998/1807\)](#) as amended by the [Motor Cycles \(Protective Helmets\) \(Amendment\) Regulations 2000 \(S.I. 2000/1488\)](#).

**F1318** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(8)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1319** Words in Sch. 8 Pt. II Group 16 Note (5) substituted (30.6.2000) by S.I. 2000/1517, **art. 5**

#### Textual Amendments

**F1314** Words in Sch. 8 Pt. II Group 16 Note (4) substituted (30.6.2000) by S.I. 2000/1517, **art. 3**

**F1315** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(8)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1316** Sch. 8 Pt. II Group 16 Note (4A) substituted (1.4.2001 with effect as mentioned in art. 1 of the amending S.I.) by S.I. 2001/732, **art. 6**

**F1317** 1988 c. 52, the current standards are laid down by the Secretary of State for the Environment, Transport and the Regions in the [Motor Cycles \(Protective Helmets\) Regulations 1998 \(S.I. 1998/1807\)](#) as amended by the [Motor Cycles \(Protective Helmets\) \(Amendment\) Regulations 2000 \(S.I. 2000/1488\)](#).

**F1318** Words in Sch. 8 Pt. II substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(8)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1319** Words in Sch. 8 Pt. II Group 16 Note (5) substituted (30.6.2000) by S.I. 2000/1517, **art. 5**

## GROUP 17—EMISSIONS ALLOWANCES

**F1320** .....

#### Textual Amendments

**F1320** Sch. 8 Pt. II Group 17 omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Value Added Tax \(Emissions Allowances\) Order 2010 \(S.I. 2010/2549\)](#), arts. 1(2), **2(3)**

**F1321** ...

#### Textual Amendments

**F1321** Words in Sch. 8 Pt. II omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 94(9)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1321** .....

*Status: Point in time view as at 26/07/2021.*

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## [<sup>F1120</sup>GROUP 19 - WOMEN'S SANITARY PRODUCTS

*Item No.*

- 1 The supply of women's sanitary products.

### NOTES

- (1) In this Group “women's sanitary products” means women's sanitary products of any of the following descriptions—
- (a) subject to Note (2), products that are designed, and marketed, as being solely for use for absorbing, or otherwise collecting, lochia or menstrual flow;
  - (b) panty liners, other than panty liners that are designed as being primarily for use as incontinence products;
  - (c) sanitary belts.
- (2) Note (1)(a) does not include protective briefs or any other form of clothing.]

## [<sup>F1322</sup>GROUP 20—PERSONAL PROTECTIVE EQUIPMENT (CORONAVIRUS)

### Textual Amendments

**F1322**Sch. 8 Pt. 2 Group 20 inserted (1.5.2020) by [The Value Added Tax \(Zero Rate for Personal Protective Equipment\) \(Coronavirus\) Order 2020 \(S.I. 2020/458\)](#), arts. 1, 4

*Item No.*

1. The supply of equipment to provide protection from infection where the supply is made in the period beginning with 1st May 2020 and ending with [<sup>F1323</sup>31st October 2020].

### NOTES

- (1) In this Group “equipment to provide protection from infection” means personal protective equipment recommended for use in connection with protection from infection with coronavirus in guidance published by Public Health England on 24th April 2020 titled “Guidance, COVID-19 personal protective equipment (PPE)” namely—
- (a) disposable gloves,
  - (b) disposable plastic aprons,
  - (c) disposable fluid-resistant coveralls or gowns,
  - (d) surgical masks (including fluid-resistant type IIR surgical masks),
  - (e) filtering face piece respirators, and
  - (f) eye and face protection (including single or reusable full face visors or goggles).
- (2) Item 1 does not include—
- (a) any of the supplies described in Group 12 or Group 15 of this Schedule, or
  - (b) any of the supplies that would be exempt by virtue of Group 7 of Schedule 9.

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(3) In this Group “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).]

**Textual Amendments**

**F1323** Words in Sch. 8 Pt. 2 Group 20 substituted (30.7.2020) by [The Value Added Tax \(Zero Rate for Personal Protective Equipment\) \(Extension\) \(Coronavirus\) Order 2020 \(S.I. 2020/698\)](#), arts. 1, 3

**[<sup>F1121</sup>GROUP 21**

**ONLINE MARKETPLACES (DEEMED SUPPLY)**

*Item No.*

- 1 A supply by a person established outside the United Kingdom that is deemed to be a supply to an operator of an online marketplace by virtue of section 5A, provided that the supply does not involve the goods being imported for the purposes of that section.]

**SCHEDULE 9**

Sections 8 and 31.

**EXEMPTIONS**

**PART I**

**INDEX TO EXEMPT SUPPLIES OF GOODS AND SERVICES**

[ <sup>F1324</sup> Betting, gaming, dutiable machine games and lotteries]	Group 4
Burial and cremation	Group 8
[ <sup>F1325</sup> Cultural services etc]	[ <sup>F1325</sup> Group 13]
Education	Group 6
Finance	Group 5
Fund raising events by charities and other qualifying bodies	Group 12
Health and welfare	Group 7
Insurance	Group 2
[ <sup>F1326</sup> Investment gold]	[ <sup>F1326</sup> Group 15]
Land	Group 1
Postal services	Group 3

*Status: Point in time view as at 26/07/2021.*

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Sport, sports competitions and physical education	Group 10
[ <sup>F1327</sup> Supplies of goods where input tax cannot be recovered]	[ <sup>F1327</sup> Group 14]
[ <sup>F1328</sup> Supplies of services by groups involving cost sharing]	[ <sup>F1328</sup> Group 16]
[ <sup>F1329</sup> Subscriptions to trade unions, professional and other public interest bodies]	[ <sup>F1329</sup> Group 9]
Works of art etc	Group 11

### Textual Amendments

**F1324** Words in Sch. 9 Pt. I Index substituted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 64\(5\)\(b\)](#)

**F1325** Sch. 9 Pt. I: entry inserted (1.12.1999) by [S.I. 1999/2834](#), [art. 3\(b\)](#)

**F1326** Sch. 9 Pt. I: entry inserted (1.1.2000) by [S.I. 1999/3116](#), [art. 2\(2\)](#)

**F1327** Sch. 9 Pt. I: entry inserted (1.3.2000) by [S.I. 1999/2833](#), [art. 2\(2\)](#)

**F1328** Sch. 9 Pt. I: entry inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [s. 197\(1\)](#)

**F1329** Sch. 9 Pt. I: entry substituted (1.12.1999) by [S.I. 1999/2834](#), [art. 3\(a\)](#)

## PART II

### THE GROUPS

#### Modifications etc. (not altering text)

**C111** Sch. 9 Pt. 2 applied by [S.I. 1995/2518](#), reg. 84(5) (as substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [Value Added Tax \(Amendment\) \(No.2\) Regulations 2003 \(S.I. 2003/1069\)](#), regs. 1(1), 9)

### GROUP 1— LAND

#### Item No.

- 1 The grant of any interest in or right over land or of any licence to occupy land, or, in relation to land in Scotland, any personal right to call for or be granted any such interest or right, other than—
- (a) the grant of the fee simple in—
    - (i) a building which has not been completed and which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose;
    - (ii) a new building which is neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose after the grant;



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- (iii) a civil engineering work which has not been completed;
- (iv) a new civil engineering work;
- <sup>F1330</sup>(b) .....
- (c) the grant of any interest, right or licence consisting of a right to take game or fish unless at the time of the grant the grantor grants to the grantee the fee simple of the land over which the right to take game or fish is exercisable;
- (d) the provision in an hotel, inn, boarding house or similar establishment of sleeping accommodation or of accommodation in rooms which are provided in conjunction with sleeping accommodation or for the purpose of a supply of catering;
- (e) the grant of any interest in, right over or licence to occupy holiday accommodation;
- (f) the provision of seasonal pitches for caravans, and the grant of facilities at caravan parks to persons for whom such pitches are provided;
- (g) the provision of pitches for tents or of camping facilities;
- (h) the grant of facilities for parking a vehicle;
- (j) the grant of any right to fell and remove standing timber;
- (k) the grant of facilities for housing, or storage of, an aircraft or for mooring, or storage of, a ship, boat or other vessel;
- <sup>F1331</sup>(ka) the grant of facilities for the self storage of goods;]
- (l) the grant of any right to occupy a box, seat or other accommodation at a sports ground, theatre, concert hall or other place of entertainment;
- (m) the grant of facilities for playing any sport or participating in any physical recreation; <sup>F1332</sup> ...
- <sup>F1333</sup>(ma) the grant of facilities to a person who uses the facilities wholly or mainly to supply hairdressing services; and]
- (n) the grant of any right, including—
  - (i) an equitable right,
  - (ii) a right under an option or right of pre-emption, or
  - (iii) in relation to land in Scotland, a personal right,to call for or be granted an interest or right which would fall within any of paragraphs (a) or (c) to <sup>F1334</sup>(ma)] above.

#### Textual Amendments

- F1330**Sch. 9 Pt. II Group 1 item 1 para. (b) repealed (with effect in accordance with art. 1(3) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), arts. 1(1), **4(1)** (with Sch. 2)
- F1331**Sch. 9 Pt. II Group 1 item 1(ka) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 26 paras. 5(2), 7(1)**
- F1332**Word in Sch. 9 Pt. II Group 1 item 1(m) omitted (1.10.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 26 paras. 5(3), 7(1)**
- F1333**Sch. 9 Pt. II Group 1 item 1(ma) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 26 paras. 5(3), 7(1)**
- F1334**Word in Sch. 9 Pt. II Group 1 item 1(n) substituted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 26 paras. 5(4), 7(1)**

Notes:

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- [<sup>F1335</sup>(1) “Grant” includes an assignment or surrender and the supply made by the person to whom an interest is surrendered when there is a reverse surrender.]
- [<sup>F1336</sup>(1A) A “reverse surrender” is one in which the person to whom the interest is surrendered is paid by the person by whom the interest is being surrendered to accept the surrender.]
- (2) A building shall be taken to be completed when an architect issues a certificate of practical completion in relation to it or it is first fully occupied, whichever happens first; and a civil engineering work shall be taken to be completed when an engineer issues a certificate of completion in relation to it or it is first fully used, whichever happens first.
- (3) [<sup>F1337</sup>Notes (2) to (10) and (12)] to Group 5 of Schedule 8 apply in relation to this Group as they apply in relation to that Group.
- (4) A building or civil engineering work is new if it was completed less than three years before the grant.
- (5) Subject to Note (6), the grant of the fee simple in a building or work completed before 1st April 1989 is not excluded from this Group by paragraph (a)(ii) or (iv).
- (6) Note (5) does not apply where the grant is the first grant of the fee simple made on or after 1st April 1989 and the building was not fully occupied, or the work not fully used, before that date.
- <sup>F1338</sup>(7) . . . . .
- (8) Where a grant of an interest in, right over or licence to occupy land includes a valuable right to take game or fish, an apportionment shall be made to determine the supply falling outside this Group by virtue of paragraph (c).
- (9) “Similar establishment” includes premises in which there is provided furnished sleeping accommodation, whether with or without the provision of board or facilities for the preparation of food, which are used by or held out as being suitable for use by visitors or travellers.
- (10) “Houseboat” includes a houseboat within the meaning of Group 9 of Schedule 8.
- (11) Paragraph (e) includes—
- (a) any grant excluded from item 1 of Group 5 of Schedule 8 by [<sup>F1339</sup>Note (13)] in that Group;
  - (b) any supply made pursuant to a tenancy, lease or licence under which the grantee is or has been permitted to erect and occupy holiday accommodation.
- (12) Paragraph (e) does not include a grant in respect of a building or part which is not a new building of—
- (a) the fee simple, or
  - (b) a tenancy, lease or licence to the extent that the grant is made for a consideration in the form of a premium.
- (13) “Holiday accommodation” includes any accommodation in a building, hut (including a beach hut or chalet), caravan, houseboat or tent which is advertised or held out as holiday accommodation or as suitable for holiday or leisure use, but excludes any accommodation within paragraph (d).

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[<sup>F1340</sup>(14) A seasonal pitch for a caravan is—

- (a) a pitch on a holiday site other than an employee pitch, or
- (b) a non-residential pitch on any other site.

(14A) In this Note and in Note (14)—

“employee pitch” means a pitch occupied by an employee of the site operator as that person’s principal place of residence during the period of occupancy;

“holiday site” means a site or part of a site which is operated as a holiday or leisure site;

“non-residential pitch” means a pitch which—

- (a) is provided for less than a year, or
- (b) is provided for a year or more and is subject to an occupation restriction,

and which is not intended to be used as the occupant’s principal place of residence during the period of occupancy;

“occupation restriction” means any covenant, statutory planning consent or similar permission, the terms of which prevent the person to whom the pitch is provided from occupying it by living in a caravan at all times throughout the period for which the pitch is provided.]

(15) “Mooring” includes anchoring or berthing.

[<sup>F1341</sup>(15A) In paragraph (ka)—

“facilities for the self storage of goods” means the use of a relevant structure for the storage of goods by the person (or persons) to whom the grant of facilities is made, and

“goods” does not include live animals.

(15B) For the purposes of Note (15A), use by a person with the permission of the person (or any of the persons) to whom the grant of facilities is made counts as use by the person (or persons) to whom that grant is made.

(15C) A grant of facilities for the self storage of goods does not fall within paragraph (ka) if—

- (a) the person making the grant (“P”)—
  - (i) is doing so in circumstances where the relevant structure used is, or forms part of, a relevant capital item, and
  - (ii) is connected with any person who uses that relevant structure for the self storage of goods,
- (b) the grant is made to a charity which uses the relevant structure solely otherwise than in the course of a business, or
- (c) in a case where the relevant structure is part of a building, its use for the storage of goods by the person (or persons) to whom the grant is made is ancillary to other use of the building by that person (or those persons).

(15D) In Notes (15A) and (15C) “relevant structure” means the whole or part of—

- (a) a container or other structure that is fully enclosed, or
- (b) a unit or building.

(15E) In Note (15C)(a)(i) “relevant capital item” means a capital item which—

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- (a) is subject to adjustments of input tax deduction by P under regulations made under section 26(3), and
  - (b) has not yet reached the end of its prescribed period of adjustment.]
- (16) Paragraph (m) shall not apply where the grant of the facilities is for—
- (a) a continuous period of use exceeding 24 hours; or
  - (b) a series of 10 or more periods, whether or not exceeding 24 hours in total, where the following conditions are satisfied—
    - (i) each period is in respect of the same activity carried on at the same place;
    - (ii) the interval between each period is not less than one day and not more than 14 days;
    - (iii) consideration is payable by reference to the whole series and is evidenced by written agreement;
    - (iv) the grantee has exclusive use of the facilities; and
    - (v) the grantee is a school, a club, an association or an organisation representing affiliated clubs or constituent associations.
- [<sup>F1342</sup>(17) Paragraph (ma) does not apply to a grant of facilities which provides for the exclusive use, by the person to whom the grant is made, of a whole building, a whole floor, a separate room or a clearly defined area, unless the person making the grant or a person connected with that person provides or makes available (directly or indirectly) services related to hairdressing for use by the person to whom the grant is made.
- (18) For the purposes of Note (17)—
- (a) “services related to hairdressing” means the services of a hairdresser's assistant or cashier, the booking of appointments, the laundering of towels, the cleaning of the facilities subject to the grant, the making of refreshments and other similar services typically used in connection with hairdressing, but does not include the provision of utilities or the cleaning of shared areas in a building, and
  - (b) it does not matter if the services related to hairdressing are shared with other persons.
- (19) For the purposes of Notes (15C) and (17) any question whether a person is connected with any other person is to be determined in accordance with section 1122 of the Corporation Tax Act 2010 (connected person).]

#### Textual Amendments

**F1335**Sch. 9 Pt. II Group 1 Note (1) substituted (1.3.1995) by [S.I. 1995/282](#), [arts. 1, 3](#)

**F1336**Sch. 9 Pt. II Group 1 Note (1A) inserted (1.3.1995) by [S.I. 1995/282](#), [arts. 1, 4](#)

**F1337**Words in Sch. 9 Pt. II Group 1 Note (3) substituted (1.3.1995) by [S.I. 1995/282](#), [arts. 1, 5](#)

**F1338**Sch. 9 Pt. II Group 1 Note (7) repealed (with effect in accordance with art. 1(3) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), [arts. 1\(1\), 4\(2\)](#) (with Sch. 2)

**F1339**Words in Sch. 9 Pt. II Group 1 Note (11)(a) substituted (1.3.1995) by [S.I. 1995/282](#), [arts. 1, 7](#)

**F1340**Sch. 9 Pt. II Group 1 Notes (14)(14A) substituted for Sch. 9 Pt. II Group 1 Note (14) (1.3.2012) by [The Value Added Tax \(Land Exemption\) Order 2012 \(S.I. 2012/58\)](#), [arts. 2, 3](#)

**F1341**Sch. 9 Pt. II Group 1 Notes (15A)-(15E) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 5\(5\), 7\(1\)](#)

**F1342**Sch. 9 Pt. II Group 1 Notes (17)-(19) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 5\(6\), 7\(1\)](#)

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**Modifications etc. (not altering text)**

**C112** Sch. 9 Pt. 2 Group 1 Note (2)(4) applied (28.11.2002) by S.I. 1995/2518, reg. 84(6) (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), reg. 4)

**Textual Amendments**

**F1335**Sch. 9 Pt. II Group 1 Note (1) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 3

**F1336**Sch. 9 Pt. II Group 1 Note (1A) inserted (1.3.1995) by S.I. 1995/282, arts. 1, 4

**F1337**Words in Sch. 9 Pt. II Group 1 Note (3) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 5

**F1338**Sch. 9 Pt. II Group 1 Note (7) repealed (with effect in accordance with art. 1(3) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), arts. 1(1), 4(2) (with Sch. 2)

**F1339**Words in Sch. 9 Pt. II Group 1 Note (11)(a) substituted (1.3.1995) by S.I. 1995/282, arts. 1, 7

**F1340**Sch. 9 Pt. II Group 1 Notes (14)(14A) substituted for Sch. 9 Pt. II Group 1 Note (14) (1.3.2012) by [The Value Added Tax \(Land Exemption\) Order 2012 \(S.I. 2012/58\)](#), arts. 2, 3

**F1341**Sch. 9 Pt. II Group 1 Notes (15A)-(15E) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 5\(5\)](#), 7(1)

**F1342**Sch. 9 Pt. II Group 1 Notes (17)-(19) inserted (1.10.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 26 paras. 5\(6\)](#), 7(1)

**Modifications etc. (not altering text)**

**C112** Sch. 9 Pt. 2 Group 1 Note (2)(4) applied (28.11.2002) by S.I. 1995/2518, reg. 84(6) (as inserted by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2002 \(S.I. 2002/2918\)](#), reg. 4)

**[<sup>F1343</sup>GROUP 2 — INSURANCE]**

**Textual Amendments**

**F1343**Sch. 9 Pt. 2 Group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by [1997 c. 16, s. 38\(1\)\(2\)](#)

<sup>F1344</sup>1 Insurance transactions and reinsurance transactions.]

**Textual Amendments**

**F1344**Sch. 9 Pt. 2 Group 2 item 1 substituted for Sch. 9 Pt. 2 Group 2 items 1-3 (1.1.2005) by [The Value Added Tax \(Insurance\) Order 2004 \(S.I. 2004/3083\)](#), arts. 1, 3

<sup>F1345</sup>4 The provision by an insurance broker or insurance agent of any of the services of an insurance intermediary in a case in which those services—

- (a) are related (whether or not [<sup>F1346</sup>a contract of insurance][<sup>F1347</sup>or reinsurance] is finally concluded) to [<sup>F1348</sup>an insurance transaction or a reinsurance transaction]; and
- (b) are provided by that broker or agent in the course of his acting in an intermediary capacity.

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**Textual Amendments**

- F1345**Sch. 9 Pt. II Group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)
- F1346**Words in Sch. 9 Group 2 item 4(a) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 347(4)
- F1347**Words in in Sch. 9 Pt. 2 Group 2 item 4 inserted (1.1.2005) by The Value Added Tax (Insurance) Order 2004 (S.I. 2004/3083), arts. 1, 4(a)
- F1348**Words in Sch. 9 Pt. 2 Group 2 item 4 substituted (1.1.2005) by The Value Added Tax (Insurance) Order 2004 (S.I. 2004/3083), arts. 1, 4(b)

*F1349*Notes:

- F1350**(A1) .....
- F1350**(B1) .....
- F1350**(C1) .....

- (1) For the purposes of item 4 services are services of an insurance intermediary if they fall within any of the following paragraphs—
  - (a) the bringing together, with a view to the insurance or reinsurance of risks, of—
    - (i) persons who are or may be seeking insurance or reinsurance, and
    - (ii) persons who provide insurance or reinsurance;
  - (b) the carrying out of work preparatory to the conclusion of contracts of insurance or reinsurance;
  - (c) the provision of assistance in the administration and performance of such contracts, including the handling of claims;
  - (d) the collection of premiums.
- (2) For the purposes of item 4 an insurance broker or insurance agent is acting “in an intermediary capacity” wherever he is acting as an intermediary, or one of the intermediaries, between—
  - (a) a person who provides [<sup>F1351</sup>insurance or reinsurance], and
  - (b) a person who is or may be seeking insurance or reinsurance or is an insured person.
- (3) Where—
  - (a) a person (“the supplier”) makes a supply of goods or services to another (“the customer”),
  - (b) the supply of the goods or services is a taxable supply and is not a zero-rated supply,
  - (c) a transaction under which insurance is to be or may be arranged for the customer is entered into in connection with the supply of the goods or services,
  - (d) a supply of services which are related (whether or not a contract of insurance is finally concluded) to the provision of insurance in pursuance of that transaction is made by—
    - (i) the person by whom the supply of the goods or services is made, or
    - (ii) a person who is connected with that person and, in connection with the provision of that insurance, deals directly with the customer,

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- and
- (e) the related services do not consist in the handling of claims under the contract for that insurance,
- those related services do not fall within item 4 unless the relevant requirements are fulfilled.
- (4) For the purposes of Note (3) the relevant requirements are—
- (a) that a document containing the statements specified in Note (5) is prepared;
- (b) that the matters that must be stated in the document have been disclosed to the customer at or before the time when the transaction mentioned in Note (3)(c) is entered into; and
- (c) that there is compliance with all such requirements (if any) as to—
- (i) the preparation and form of the document,
- (ii) the manner of disclosing to the customer the matters that must be stated in the document, and
- (iii) the delivery of a copy of the document to the customer,
- as may be set out in a notice that has been published by the Commissioners and has not been withdrawn.
- (5) The statements referred to in Note (4) are—
- (a) a statement setting out the amount of the premium under any contract of insurance that is to be or may be entered into in pursuance of the transaction in question; and
- (b) a statement setting out every amount that the customer is, is to be or has been required to pay, otherwise than by way of such a premium, in connection with that transaction or anything that is to be, may be or has been done in pursuance of that transaction.
- (6) For the purposes of Note (3) any question whether a person is connected with another shall be determined in accordance with [F1352section 1122 of the Corporation Tax Act 2010].
- (7) Item 4 does not include—
- (a) the supply of any market research, product design, advertising, promotional or similar services; or
- (b) the collection, collation and provision of information for use in connection with market research, product design, advertising, promotional or similar activities.
- (8) Item 4 does not include the supply of any valuation or inspection services.
- (9) Item 4 does not include the supply of any services by loss adjusters, average adjusters, motor assessors, surveyors or other experts except where—
- (a) the services consist in the handling of a claim under a contract of insurance or reinsurance;
- (b) the person handling the claim is authorised when doing so to act on behalf of the insurer or reinsurer; and
- (c) that person's authority so to act includes written authority to determine whether to accept or reject the claim and, where accepting it in whole or in part, to settle the amount to be paid on the claim.
- (10) Item 4 does not include the supply of any services which—

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- (a) are supplied in pursuance of a contract of insurance or reinsurance or of any arrangements made in connection with such a contract; and
- (b) are so supplied either—
  - (i) instead of the payment of the whole or any part of any indemnity for which the contract provides, or
  - (ii) for the purpose, in any other manner, of satisfying any claim under that contract, whether in whole or in part.

**Textual Amendments**

**F1350** Words in Sch. 9 Pt. 2 Group 2 omitted (1.1.2005) by virtue of [The Value Added Tax \(Insurance\) Order 2004 \(S.I. 2004/3083\)](#), arts. 1, 5

**F1351** Words in Sch. 9 Pt. 2 Group 2 substituted (1.1.2005) by [The Value Added Tax \(Insurance\) Order 2004 \(S.I. 2004/3083\)](#), arts. 1, 6

**F1352** Words in Sch. 9 Pt. 2 Group 2 note (6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 285(e)(i)** (with Sch. 2)

**Textual Amendments**

**F1349** Sch. 9 Pt. II group 2 substituted (19.3.1997 with effect as mentioned in s. 38(2) of the amending Act) by 1997 c. 16, s. 38(1)(2)

**F1350** Words in Sch. 9 Pt. 2 Group 2 omitted (1.1.2005) by virtue of [The Value Added Tax \(Insurance\) Order 2004 \(S.I. 2004/3083\)](#), arts. 1, 5

**F1351** Words in Sch. 9 Pt. 2 Group 2 substituted (1.1.2005) by [The Value Added Tax \(Insurance\) Order 2004 \(S.I. 2004/3083\)](#), arts. 1, 6

**F1352** Words in Sch. 9 Pt. 2 Group 2 note (6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 285(e)(i)** (with Sch. 2)

**[<sup>F1353</sup> GROUP 3— POSTAL SERVICES**

**Textual Amendments**

**F1353** Sch. 9 Pt. II Group 3 substituted (with effect in accordance with s. 22(4) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 22(2)

*Item No*

- 1 The supply of public postal services by a universal service provider.
- 2 The supply of goods by a universal service provider which is incidental to the supply of public postal services by that provider.

*Notes:*

<sup>F1354</sup>(1) .....



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- (2) Subject to the following Notes, “public postal services”, in relation to a universal service provider, means any postal services which the provider is required to provide in the discharge of [<sup>F1355</sup>a specified condition].
- (3) Public postal services include postal services which a universal service provider provides to allow a person access to the provider's [<sup>F1356</sup>postal network (within the meaning of section 38 of the Postal Services Act 2011) and which are required to be provided by a specified condition].
- (4) Services are not “public postal services” if—
  - (a) the price is not controlled by or under [<sup>F1357</sup>a specified condition], or
  - (b) any of the other terms on which the services are provided are freely negotiated.
- (5) But Note (4) does not apply if [<sup>F1358</sup>a specified condition] requires the universal service provider to make the services available to persons generally—
  - (a) where the price is not controlled by or under [<sup>F1359</sup>the condition], at the same price, or
  - (b) where terms are freely negotiated as mentioned in Note (4)(b), on those terms.
- <sup>F1360</sup>(6) In this Group “specified condition” means a designated USP condition, a USP access condition or a transitory condition under paragraph 5 of Schedule 9 to the Postal Services Act 2011 which is imposed only on a universal service provider.
- (7) Any expression which is used in this Group and in Part 3 of the Postal Services Act 2011 has the same meaning in this Group as in that Part.]]

#### Textual Amendments

- F1354**Sch. 9 Pt. II Group 3 Note (1) repealed (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 1(2), Sch. 1 para. 28(3)(a), **Sch. 2**
- F1355**Words in Sch. 9 Pt. II Group 3 Note (2) substituted (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 1(2), **Sch. 1 para. 28(3)(b)**
- F1356**Words in Sch. 9 Pt. II Group 3 Note (3) substituted (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 1(2), **Sch. 1 para. 28(3)(c)**
- F1357**Words in Sch. 9 Pt. II Group 3 Note (4)(a) substituted (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 1(2), **Sch. 1 para. 28(3)(d)**
- F1358**Words in Sch. 9 Pt. II Group 3 Note (5) substituted (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 1(2), **Sch. 1 para. 28(3)(e)(i)**
- F1359**Words in Sch. 9 Pt. II Group 3 Note (5)(a) substituted (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 1(2), **Sch. 1 para. 28(3)(e)(ii)**
- F1360**Sch. 9 Pt. II Group 3 Notes (6)(7) substituted for Sch. 9 Pt. II Group 3 Note (6) (1.10.2011) by [The Postal Services Act 2011 \(Consequential Modifications and Amendments\) Order 2011 \(S.I. 2011/2085\)](#), art. 1(2), **Sch. 1 para. 28(3)(f)**

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**GROUP 4— BETTING, GAMING [<sup>F1361</sup>, DUTIABLE MACHINE GAMES] AND LOTTERIES**

**Textual Amendments**

**F1361** Words in Sch. 9 Pt. II Group 4 heading inserted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 64\(5\)\(a\)](#)

*Item No.*

1 The provision of any facilities for the placing of bets [<sup>F1362</sup> or for the playing of any games of chance for a prize].

**Textual Amendments**

**F1362** Words in Sch. 9 Pt. II Group 4 item 1 substituted (1.11.2006) by [The Value Added Tax \(Betting, Gaming and Lotteries\) Order 2006 \(S.I. 2006/2685\)](#), arts. 1, [2\(a\)](#)

[<sup>F1363</sup> 1A The provision of any facilities for the playing of dutiable machine games (as defined in Part 1 of Schedule 24 to the Finance Act 2012) but only to the extent that—  
 (a) the facilities are used to play such games, and  
 (b) the takings and payouts in respect of those games are taken into account in determining the charge to machine games duty.]

**Textual Amendments**

**F1363** Sch. 9 Pt. II Group 4 item 1A inserted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 64\(2\)](#)

2 The granting of a right to take part in a lottery.

*Notes:*

- (1) [<sup>F1364</sup> Items 1 and 1A do] not include—
  - (a) admission to any premises; or
  - <sup>F1365</sup>(b) .....
  - (c) the provision by a club of such facilities to its members as are available to them on payment of their subscription but without further charge; <sup>F1366</sup> ...
  - <sup>F1366</sup>(d) .....

[<sup>F1367</sup>(1A) Item 1 does not apply to the provision of facilities to the extent that the facilities are used to play a relevant machine game (as defined in section 23A).]

- [<sup>F1368</sup>(2) "Game of chance"—
  - (a) includes—
    - (i) a game that involves both an element of chance and an element of skill,
    - (ii) a game that involves an element of chance that can be eliminated by superlative skill, and
    - (iii) a game that is presented as involving an element of chance, but
  - (b) does not include a sport.

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- (3) A person plays a game of chance if he participates in a game of chance—
  - (a) whether or not there are other participants in the game, and
  - (b) whether or not a computer generates images or data taken to represent the actions of other participants in the game.
- (4) "Prize" does not include the opportunity to play the game again.]
- F1369(5) .....
- F1369(6) .....
- F1369(7) .....
- F1369(8) .....
- F1369(9) .....
- F1369(10) .....
- F1369(11) .....

**Textual Amendments**

- F1364** Words in Sch. 9 Pt. II Group 4 Note (1) substituted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 24 para. 64(3)(a)**
- F1365** Sch. 9 Pt. II Group 4 Note (1)(b) omitted (retrospective to 27.4.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), **s. 113(2)(6)**
- F1366** Sch. 9 Pt. II Group 4 Note (1)(d) and word omitted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 24 para. 64(3)(b)**
- F1367** Sch. 9 Pt. II Group 4 Note (1A) inserted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 24 para. 64(4)**
- F1368** Sch. 9 Pt. II Group 4 Notes (2)-(4) substituted for Notes (2)-(8) (1.11.2006) by [The Value Added Tax \(Betting, Gaming and Lotteries\) Order 2006 \(S.I. 2006/2685\)](#), arts. 1, **2(c)**
- F1369** Sch. 9 Pt. II Group 4 Notes (5)-(11) omitted (retrospective to 27.4.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), **s. 113(3)(6)**

**Textual Amendments**

- F1364** Words in Sch. 9 Pt. II Group 4 Note (1) substituted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 24 para. 64(3)(a)**
- F1365** Sch. 9 Pt. II Group 4 Note (1)(b) omitted (retrospective to 27.4.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), **s. 113(2)(6)**
- F1366** Sch. 9 Pt. II Group 4 Note (1)(d) and word omitted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 24 para. 64(3)(b)**
- F1367** Sch. 9 Pt. II Group 4 Note (1A) inserted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 24 para. 64(4)**
- F1368** Sch. 9 Pt. II Group 4 Notes (2)-(4) substituted for Notes (2)-(8) (1.11.2006) by [The Value Added Tax \(Betting, Gaming and Lotteries\) Order 2006 \(S.I. 2006/2685\)](#), arts. 1, **2(c)**
- F1369** Sch. 9 Pt. II Group 4 Notes (5)-(11) omitted (retrospective to 27.4.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), **s. 113(3)(6)**

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## GROUP 5— FINANCE

### Item No.

- 1 The issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money.
- 2 The making of any advance or the granting of any credit.
- [<sup>F1370</sup>2A The management of credit by the person granting it.]

#### Textual Amendments

**F1370**Sch. 9 Pt. II Group 5 Item 2A inserted (with application in accordance with art. 1 of the amending S.I.) by [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(a)**

- 3 The provision of the facility of instalment credit finance in a hire-purchase, conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the recipient of the supply of goods.
- 4 The provision of administrative arrangements and documentation and the transfer of title to the goods in connection with the supply described in item 3 if the total consideration therefor is specified in the agreement and does not exceed £10.
- [<sup>F13715</sup> The provision of intermediary services in relation to any transaction comprised in item 1, 2, 3, 4 or 6 (whether or not any such transaction is finally concluded) by a person acting in an intermediary capacity.

#### Textual Amendments

**F1371**Sch. 9 Pt. II Group 5 Item 5, 5A substituted (10.3.1999) for Item 5 by [S.I. 1999/594](#), **art. 3**

- 5A The underwriting of an issue within item 1 or any transaction within item 6.]

#### Textual Amendments

**F1371**Sch. 9 Pt. II Group 5 Item 5, 5A substituted (10.3.1999) for Item 5 by [S.I. 1999/594](#), **art. 3**

- 6 The issue, transfer or receipt of, or any dealing with, any security or secondary security being—
- (a) shares, stocks, bonds, notes (other than promissory notes), debentures, debenture stock or shares in an oil royalty; or
  - (b) any document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognises an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable; or
  - (c) any bill, note or other obligation of the Treasury or of a Government in any part of the world, being a document by the delivery of which, with or without endorsement, title is transferable, and not being an obligation which is or has been legal tender in any part of the world; or

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- (d) any letter of allotment or rights, any warrant conferring an option to acquire a security included in this item, any renounceable or scrip certificates, rights coupons, coupons representing dividends or interest on such a security, bond mandates or other documents conferring or containing evidence of title to or rights in respect of such a security; or
- (e) units or other documents conferring rights under any trust established for the purpose, or having the effect of providing, for persons having funds available for investment, facilities for the participation by them as beneficiaries under the trust, in any profits or income arising from the acquisition, holding, management or disposal of any property whatsoever.

F1372 7 .....

**Textual Amendments**

F1372 Sch. 9 Pt. II Group 5 Item 7 omitted (10.3.1999) by virtue of [S.I. 1999/594](#), [art. 4](#)

8 The operation of any current, deposit or savings account.

[<sup>F1373</sup>9 The management of—

- (a) an authorised open-ended investment company; or
- [<sup>F1374</sup>(aa) an authorised contractual scheme; or]
- (b) an authorised unit trust scheme; or
- (c) a Gibraltar collective investment scheme that is not an umbrella scheme; or
- (d) a sub-fund of any other Gibraltar collective investment scheme; or
- (e) an individually recognised overseas scheme that is not an umbrella scheme; or
- (f) a sub-fund of any other individually recognised overseas scheme; or
- <sup>F1375</sup>(g) .....
- <sup>F1375</sup>(h) .....
- <sup>F1376</sup>(i) .....
- <sup>F1376</sup>(j) .....
- [<sup>F1377</sup>(k) a qualifying pension fund.]]

**Textual Amendments**

F1373 Sch. 9 Pt. II Group 5 Item 9 substituted (1.10.2008) by [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), [arts. 1\(2\)\(b\), 3\(2\)](#)

F1374 Sch. 9 Pt. II Group 5 Item 9(aa) inserted (28.6.2013) by [The Value Added Tax \(Finance\) Order 2013 \(S.I. 2013/1402\)](#), [arts. 1, 2\(2\)](#)

F1375 Sch. 9 Pt. II Group 5 Item 9(g)(h) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), [reg. 1, Sch. 1 para. 40\(a\)](#)

F1376 Words in [Sch. 9 Pt. II](#) omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1214\)](#), [regs. 1, 2\(2\)](#); [S.I. 2020/1641](#), [reg. 2, Sch.](#)

F1377 Sch. 9 Pt. II Group 5 Item 9(k) and word inserted (1.4.2020) by [The Value Added Tax \(Finance\) Order 2020 \(S.I. 2020/209\)](#), [arts. 1, 3](#)

[<sup>F1378</sup>10 The management of a closed-ended collective investment undertaking.]

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### Textual Amendments

**F1378**Sch. 9 Pt. II Group 5 Item 10 substituted (1.10.2008) by [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(3)**

#### Notes:

- (1) Item 1 does not include anything included in item 6.
- [<sup>F1379</sup>(1A) Item 1 does not include a supply of services which is preparatory to the carrying out of a transaction falling within that item.]
- (2) This Group does not include the supply of a coin or a banknote as a collectors' piece or as an investment article.
- <sup>F1380</sup>(2A) .....
- <sup>F1381</sup>(2B) .....
- (3) Item 2 includes the supply of credit by a person, in connection with a supply of goods or services by him, for which a separate charge is made and disclosed to the recipient of the supply of goods or services.
- (4) This Group includes any supply by a person carrying on a credit card, charge card or similar payment card operation made in connection with that operation to a person who accepts the card used in the operation when presented to him in payment for goods or services.
- [<sup>F1382</sup>(5) For the purposes of item 5 “intermediary services” consist of bringing together, with a view to the provision of financial services—
- (a) persons who are or may be seeking to receive financial services, and
  - (b) persons who provide financial services,
- together with (in the case of financial services falling within item 1, 2, 3 or 4) the performance of work preparatory to the conclusion of contracts for the provision of those financial services, but do not include the supply of any market research, product design, advertising, promotional or similar services or the collection, collation and provision of information in connection with such activities.
- (5A) For the purposes of item 5 a person is “acting in an intermediary capacity” wherever he is acting as an intermediary, or one of the intermediaries, between—
- (a) a person who provides financial services, and
  - (b) a person who is or may be seeking to receive financial services
- <sup>F1383</sup> ...
- (5B) For the purposes of notes 5 and 5A “financial services” means the carrying out of any transaction falling within item 1, 2, 3, 4 or 6.]
- [<sup>F1384</sup>(6) For the purposes of this Group—
- “authorised open-ended investment company” [<sup>F1385</sup>, “authorised contractual scheme”] and “authorised unit trust scheme” have the meaning given in section 237(3) of the Financial Services and Markets Act 2000;
- “closed-ended collective investment undertaking” means an undertaking in relation to which the following conditions are satisfied—

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- (a) its sole object is the investment of capital, raised from the public<sup>F1386</sup> ...; and
- (b) it manages its assets on the principle of spreading investment risk; and
- (c) all of its ordinary shares (of each class if there is more than one) or equivalent units are included in the official list maintained by the [F1387Financial Conduct Authority] pursuant to section 74(1) of the Financial Services and Markets Act 2000; and
- (d) all of its ordinary shares (of each class if there is more than one) or equivalent units are admitted to trading on a regulated market situated or operating in the United Kingdom;

“collective investment scheme” has the meaning given in section 235 of the Financial Services and Markets Act 2000;

“Gibraltar collective investment scheme” means—

- (a) a collective investment scheme to which section 264 of the Financial Services and Markets Act 2000 applies pursuant to an order made under section 409(1)(d) of that Act;<sup>F1388</sup> ...
- (b)<sup>F1388</sup> ...

“individually recognised overseas scheme” means a collective investment scheme declared by the [F1387Financial Conduct Authority] to be a recognised scheme pursuant to section 272 of the Financial Services and Markets Act 2000;

[<sup>F1389</sup>“pension member” means, in relation to a qualifying pension fund, a person to or in respect of whom retirement benefits are to be paid from the fund;]

[<sup>F1389</sup>“qualifying pension fund” means a pension fund in relation to which all of the following conditions are satisfied—

- (a) it is solely funded, whether directly or indirectly, by pension members;
- (b) the pension members bear the investment risk;
- (c) the fund contains the pooled contributions of more than one pension member;
- (d) the risk borne by the pension members is spread over a range of investments; and
- (e) the fund is established in the United Kingdom<sup>F1390</sup> ...;]

<sup>F1391</sup> ...

<sup>F1392</sup> ...

“regulated market” has the meaning given in section 103(1) of the Financial Services and Markets Act 2000;

“sub-fund” means a separate part of the property of an umbrella scheme that is pooled separately;

“umbrella scheme” means a collective investment scheme under which the contributions of the participants in the scheme and the profits or income out of which payments are to be made to them are pooled separately in relation to separate parts of the scheme property.]

[<sup>F1393</sup>(6A) A collective investment scheme, or sub-fund, that is not for the time being marketed in the United Kingdom is to be treated as not falling within item 9(c) [<sup>F1394</sup>to (f)] if—

- (a) it has never been marketed in the United Kingdom, or

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(b) less than 5% of its shares or units are held by, or on behalf of, investors who are in the United Kingdom.]

[<sup>F1395</sup>(6B) For the purposes of Note (6), a pension fund is funded indirectly where contributions are made by a third party on behalf of a pension member.]

<sup>F1396</sup>(7) . . . . .

<sup>F1397</sup>(8) . . . . .

<sup>F1398</sup>(9) . . . . .

<sup>F1399</sup>(10) . . . . .

### Textual Amendments

- F1379**Sch. 9 Pt. II Group 5 Note (1A) inserted (10.3.1999) by S.I. 1999/594, **art. 5**
- F1380**Sch. 9 Pt. II Group 5 Note (2A) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(d)**
- F1381**Sch. 9 Pt. II Group 5 Note (2B) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) Order 2003 \(S.I. 2003/1568\)](#), **art. 2**
- F1382**Sch. 9 Pt. II Group 5 Notes (5)(5A)(5B) substituted (10.3.1999) for Note (5) by S.I. 1999/594, **art. 7**
- F1383**Words in Sch. 9 Pt. II Group 5 Note (5A) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(e)**
- F1384**Sch. 9 Pt. II Group 5 Note (6) substituted (1.10.2008) by [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(4)**
- F1385**Words in Sch. 9 Pt. II Group 15 Note (6) inserted (28.6.2013) by [The Value Added Tax \(Finance\) Order 2013 \(S.I. 2013/1402\)](#), arts. 1, **2(3)**
- F1386**Words in Sch. 9 Pt. II Group 5 Note (6) omitted (1.4.2020) by virtue of [The Value Added Tax \(Finance\) Order 2020 \(S.I. 2020/209\)](#), arts. 1, **4(a)**
- F1387**Words in Sch. 9 Pt. II substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 81** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F1388**Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1214\)](#), regs. 1, **2(3)(a)**; S.I. 2020/1641, reg. 2, Sch.
- F1389**Words in Sch. 9 Pt. II Group 5 Note (6) inserted (1.4.2020) by [The Value Added Tax \(Finance\) Order 2020 \(S.I. 2020/209\)](#), arts. 1, **4(b)**
- F1390**Words in Sch. 9 omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), regs. 1, **10**; S.I. 2020/1641, reg. 2, Sch.
- F1391**Words in Sch. 9 Pt. II Group 5 Note (6) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 40(b)**
- F1392**Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1214\)](#), regs. 1, **2(3)(b)**; S.I. 2020/1641, reg. 2, Sch.
- F1393**Sch. 9 Pt. II Group 5 Note (6A) inserted (1.10.2008) by [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(5)**
- F1394**Words in Sch. 9 Pt. II substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1214\)](#), regs. 1, **2(4)**; S.I. 2020/1641, reg. 2, Sch.
- F1395**Sch. 9 Pt. II Group 5 Note (6B) inserted (1.4.2020) by [The Value Added Tax \(Finance\) Order 2020 \(S.I. 2020/209\)](#), arts. 1, **5**
- F1396**Sch. 9 Pt. II Group 5 Note (7) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(g)**



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**F1397**Sch. 9 Pt. II Group 5 Note (8) omitted (1.10.2008) by virtue of [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(6)**

**F1398**Sch. 9 Pt. II Group 5 Note (9) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(i)**

**F1399**Sch. 9 Pt. II Group 5 Note (10) omitted (1.10.2008) by virtue of [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(6)**

### Textual Amendments

**F1379**Sch. 9 Pt. II Group 5 Note (1A) inserted (10.3.1999) by [S.I. 1999/594](#), **art. 5**

**F1380**Sch. 9 Pt. II Group 5 Note (2A) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(d)**

**F1381**Sch. 9 Pt. II Group 5 Note (2B) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) Order 2003 \(S.I. 2003/1568\)](#), **art. 2**

**F1382**Sch. 9 Pt. II Group 5 Notes (5)(5A)(5B) substituted (10.3.1999) for Note (5) by [S.I. 1999/594](#), **art. 7**

**F1383**Words in Sch. 9 Pt. II Group 5 Note (5A) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(e)**

**F1384**Sch. 9 Pt. II Group 5 Note (6) substituted (1.10.2008) by [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(4)**

**F1385**Words in Sch. 9 Pt. II Group 15 Note (6) inserted (28.6.2013) by [The Value Added Tax \(Finance\) Order 2013 \(S.I. 2013/1402\)](#), arts. 1, **2(3)**

**F1386**Words in Sch. 9 Pt. II Group 5 Note (6) omitted (1.4.2020) by virtue of [The Value Added Tax \(Finance\) Order 2020 \(S.I. 2020/209\)](#), arts. 1, **4(a)**

**F1387**Words in Sch. 9 Pt. II substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 81** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

**F1388**Words in [Sch. 9 Pt. II](#) omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1214\)](#), regs. 1, **2(3)(a)**; [S.I. 2020/1641](#), reg. 2, [Sch.](#)

**F1389**Words in Sch. 9 Pt. II Group 5 Note (6) inserted (1.4.2020) by [The Value Added Tax \(Finance\) Order 2020 \(S.I. 2020/209\)](#), arts. 1, **4(b)**

**F1390**Words in [Sch. 9](#) omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments to Acts of Parliament\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1312\)](#), regs. 1, **10**; [S.I. 2020/1641](#), reg. 2, [Sch.](#)

**F1391**Words in Sch. 9 Pt. II Group 5 Note (6) omitted (22.7.2013) by virtue of [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 1 para. 40(b)**

**F1392**Words in [Sch. 9 Pt. II](#) omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1214\)](#), regs. 1, **2(3)(b)**; [S.I. 2020/1641](#), reg. 2, [Sch.](#)

**F1393**Sch. 9 Pt. II Group 5 Note (6A) inserted (1.10.2008) by [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(5)**

**F1394**Words in [Sch. 9 Pt. II](#) substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019 \(S.I. 2019/1214\)](#), regs. 1, **2(4)**; [S.I. 2020/1641](#), reg. 2, [Sch.](#)

**F1395**Sch. 9 Pt. II Group 5 Note (6B) inserted (1.4.2020) by [The Value Added Tax \(Finance\) Order 2020 \(S.I. 2020/209\)](#), arts. 1, **5**

**F1396**Sch. 9 Pt. II Group 5 Note (7) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(g)**

**F1397**Sch. 9 Pt. II Group 5 Note (8) omitted (1.10.2008) by virtue of [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(6)**

**F1398**Sch. 9 Pt. II Group 5 Note (9) omitted (with application in accordance with art. 1 of the amending S.I.) by virtue of [Value Added Tax \(Finance\) \(No.2\) Order 2003 \(S.I. 2003/1569\)](#), **art. 2(i)**

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**F1399**Sch. 9 Pt. II Group 5 Note (10) omitted (1.10.2008) by virtue of [The Value Added Tax \(Finance\) \(No. 2\) Order 2008 \(S.I. 2008/2547\)](#), arts. 1(2)(b), **3(6)**

## GROUP 6— EDUCATION

### Item No.

- 1 The provision by an eligible body of—
- (a) education;
  - (b) <sup>F1400</sup>... or
  - (c) vocational training.

#### Textual Amendments

**F1400**Sch. 9 Pt. II item 1(b) omitted (1.8.2013) by virtue of [The Value Added Tax \(Education\) Order 2013 \(S.I. 2013/1897\)](#), arts. 1(2), **2** (with art. 1(2)(3))

- 2 The supply of private tuition, in a subject ordinarily taught in a school or university, by an individual teacher acting independently of an employer.
- 3 The provision of examination services—
- (a) by or to an eligible body; or
  - (b) to a person receiving education or vocational training which is—
    - (i) exempt by virtue of items 1, 2 [<sup>F1401</sup>, 5 or 5A]; or
    - (ii) provided otherwise than in the course or furtherance of a business.

#### Textual Amendments

**F1401** Words in Sch. 9 Group 6 item 3(b)(i) substituted (28.7.2000 for certain purposes otherwise 1.4.2001) by 2000 c. 21, s. 149, [Sch. 9 para. 47\(2\)](#); S.I. 2001/654, art. 2(2), [Sch. Pt. II](#) (with art. 3)

- 4 The supply of any goods or services (other than examination services) which are closely related to a supply of a description falling within item 1 (the principal supply) by or to the eligible body making the principal supply provided—
- (a) the goods or services are for the direct use of the pupil, student or trainee (as the case may be) receiving the principal supply; and
  - (b) where the supply is to the eligible body making the principal supply, it is made by another eligible body.
- 5 The provision of vocational training, and the supply of any goods or services essential thereto by the person providing the vocational training, to the extent that the consideration payable is ultimately a charge to funds provided pursuant to arrangements made under section 2 of the <sup>M45</sup>Employment and Training Act 1973, section 1A of the <sup>M46</sup>Employment and Training Act (Northern Ireland) 1950 or section 2 of the <sup>M47</sup>Enterprise and New Towns (Scotland) Act 1990.

#### Marginal Citations

**M45** 1973 c.50.

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**M46** 1950 c. 29 (N.I.).

**M47** 1990 c. 35.

- [<sup>F1402</sup>5A The provision of education or vocational training and the supply, by the person providing that education or training, of any goods or services essential to that provision, to the extent that the consideration payable is ultimately a charge to funds provided by
- [<sup>F1403</sup>(a) <sup>F1404</sup> .....
  - (b) <sup>F1405</sup> .....
  - (c) the [<sup>F1406</sup>National Assembly for Wales] under <sup>F1407</sup>... Part II of the Learning and Skills Act 2000.]

#### Textual Amendments

- F1402**Sch. 9 Group 6 item 5A inserted (28.7.2000 for certain purposes otherwise 1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 47(3)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3)
- F1403**Words in Sch. 9 Pt. 2 Group 6 item 5A substituted (1.4.2010) by *The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010* (S.I. 2010/1080), art. 1(2)(a)(b), **Sch. 1 para. 26(a)** (with art. 2(3))
- F1404**Sch. 9 Pt. II Group 6 item 5A(a) omitted (1.4.2012) by virtue of *Education Act 2011* (c. 21), s. 82(3), **Sch. 16 para. 9(2)(a)**; S.I. 2012/924, art. 2
- F1405**Sch. 9 Pt. II Group 6 item 5A(b) omitted (26.5.2015) by virtue of *Deregulation Act 2015* (c. 20), s. 115(3)(g), **Sch. 14 para. 41(2)**
- F1406**Words in Sch. 9 Pt. 2 Group 6 item 5A substituted (1.4.2006) by *The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005* (S.I. 2005/3238), art. 1(1), **Sch. 1 para. 30** (with art. 7)
- F1407**Words in Sch. 9 Pt. 2 Group 6 item 5A repealed (1.4.2010) by *The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010* (S.I. 2010/1080), art. 1(2)(a)(b), Sch. 1 para. 26(b), **Sch. 2 Pt. 1** (with art. 2(3))

- [<sup>F1408</sup>5B The provision of education or vocational training and the supply, by the person providing that education or training, of any goods or services essential to that provision, to persons who are—
- (a) aged under 19,
  - (b) aged 19 or over, in respect of education or training begun by them when they were aged under 19,
  - [ aged 19 or over and for whom an EHC plan is maintained,]
- <sup>F1409</sup>(ba)
- (c) aged 19 or over but under 25 and subject to learning difficulty assessment, or
  - (d) aged 25 or over, in respect of education or training begun by them when they were within paragraph [<sup>F1410</sup>(ba) or] (c),
- to the extent that the consideration payable is ultimately a charge to funds provided by the Secretary of State.]

#### Textual Amendments

- F1408**Sch. 9 Pt. II Group 6 item 5B inserted (1.4.2012) by *Education Act 2011* (c. 21), s. 82(3), **Sch. 16 para. 9(3)**; S.I. 2012/924, art. 2

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**F1409** Sch. 9 Pt. II Group 6 item 5B(ba) inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 3 para. 66\(2\)\(a\)](#); S.I. 2014/889, art. 7(a)

**F1410** Words in Sch. 9 Pt. II Group 6 item 5B(d) inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\), s. 139\(6\), Sch. 3 para. 66\(2\)\(b\)](#); S.I. 2014/889, art. 7(a)

[<sup>F1411</sup>5C The provision of education or vocational training and the supply, by the person providing that education or training, of any goods or services essential to that provision, to persons who are aged 19 or over, to the extent that the consideration payable is ultimately a charge to funds provided by the Secretary of State in exercise of functions under Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009.]

#### Textual Amendments

**F1411** Sch. 9 Pt. II Group 6 item 5C inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(3\)\(g\), Sch. 14 para. 41\(3\)](#)

6 The provision of facilities by—

- (a) a youth club or an association of youth clubs to its members; or
- (b) an association of youth clubs to members of a youth club which is a member of that association.

Notes:

(1) For the purposes of this Group an “eligible body” is—

- (a) a school within the meaning of [<sup>F1412</sup>the Education Act 1996], the <sup>M48</sup>Education (Scotland) Act 1980, the <sup>M49</sup>Education and Libraries (Northern Ireland) Order 1986 or the <sup>M50</sup>Education Reform (Northern Ireland) Order 1989, which is—
  - (i) provisionally or finally registered or deemed to be registered as a school within the meaning of the aforesaid legislation in a register of independent schools; or
  - (ii) a school in respect of which of which grants are made by the Secretary of State to the proprietor or managers; or
  - (iii) [<sup>F1413</sup>a community, foundation or voluntary school within the meaning of the school Standards and Framework Act 1998, a special school within the meaning of section 337 of the Education Act 1996][<sup>F1414</sup>or a maintained school within the meaning of] the <sup>M51</sup>Education and Libraries (Northern Ireland) Order 1986; or
  - (iv) a public school within the meaning of section 135(1) of the Education (Scotland) Act 1980; or
  - <sup>F1415</sup>(v) . . . . .
  - (vi) [<sup>F1416</sup>a self-governing school within the meaning of section 1(3) of the <sup>M52</sup>Self-Governing Schools (Scotland) Act 1989; or]
  - <sup>F1417</sup>(vii) . . . . .
  - (viii) a grant-maintained integrated school within the meaning of Article 65 of the Education Reform (Northern Ireland) Order 1989;
- (b) a United Kingdom university, and any college, institution, school or hall of such a university;

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- (c) an institution—
    - (i) falling within section 91(3)(a) <sup>[F1418]</sup>, (b) or (c) or section 91(5)<sup>[F1419]</sup>(za),] (b) or (c) of the <sup>M53</sup>Further and Higher Education Act 1992; or
    - (ii) which is a designated institution as defined in section 44(2) of the <sup>M54</sup>Further and Higher Education (Scotland) Act 1992; or
    - (iii) managed by a board of management as defined in section 36(1) of the Further and Higher Education (Scotland) Act 1992; or
    - (iv) to which grants are paid by the Department of Education for Northern Ireland under Article 66(2) of the <sup>M55</sup>Education and Libraries (Northern Ireland) Order 1986; <sup>[F1420]</sup>or
    - (v) managed by a governing body established under the Further Education (Northern Ireland) Order 1997;]
  - (d) a public body of a description in Note (5) to Group 7 below;
  - <sup>[F1421]</sup>(e) a body which—
    - (i) is precluded from distributing and does not distribute any profit it makes; and
    - (ii) applies any profits made from supplies of a description within this Group to the continuance or improvement of such supplies;]
  - <sup>[F1422]</sup>(f) a body not falling within paragraphs (a) to (e) above which provides the teaching of English as a foreign language.]
- (2) A supply by a body, which is an eligible body only by virtue of falling within Note <sup>[F1423]</sup>1(f)], shall not fall within this Group insofar as it consists of the provision of anything other than the teaching of English as a foreign language.
- <sup>[F1424]</sup>(3) “Vocational training” means—
- training, re-training or the provision of work experience for—
    - (a) any trade, profession or employment; or
    - (b) any voluntary work connected with—
      - (i) education, health, safety, or welfare; or
      - (ii) the carrying out of activities of a charitable nature.]
- (4) “Examination services” include the setting and marking of examinations, the setting of educational or training standards, the making of assessments and other services provided with a view to ensuring educational and training standards are maintained.
- (5) For the purposes of item 5 a supply of any goods or services shall not be taken to be essential to the provision of vocational training unless the goods or services in question are provided directly to the trainee.
- <sup>[F1425]</sup>(5A) For the purposes of <sup>[F1426]</sup>items 5A <sup>[F1427]</sup>to 5C]]a supply of any goods or services shall not be taken to be essential to the provision of education or vocational training unless—
  - (a) in the case of the provision of education, the goods or services are provided directly to the person receiving the education;
  - (b) in the case of the provision of vocational training, the goods or services are provided directly to the person receiving the training.]

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[<sup>F1428</sup>(5B) In item 5B, [<sup>F1429</sup>“EHC plan” and] “subject to learning difficulty assessment” [<sup>F1429</sup>have the same meanings] as in the Education Act 1996.]

- (6) For the purposes of item 6 a club is a “youth club” if—
- (a) it is established to promote the social, physical, educational or spiritual development of its members;
  - (b) its members are mainly under 21 years of age; and
  - (c) it satisfies the requirements of Note (l)(f)(i) and (ii).

### Textual Amendments

- F1412** Words in Sch. 9 Group 6 Note (1)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 125(a)**
- F1413** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 51(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.**
- F1414** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 125(b)**
- F1415** Sch. 9 Group 6 Note (1)(a)(v) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.**
- F1416** Sch. 9 Pt. 2 Group 6 Note (1)(a)(vi) (S.) repealed (31.12.2004) by Standards in Scotland’s Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)
- F1417** Sch. 9 Group 6 Note (1)(a)(vii) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.**
- F1418** Words in Sch. 9 Pt. 2 Group 6 Note (1)(c)(i) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 94** (with art. 2(3))
- F1419** Word in Sch. 9 Pt. 2 Group 6 note (1)(c)(i) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **5**
- F1420** Sch. 9 Group 6 Note 1(c)(v) and preceding word inserted (1.4.1998) by S.I. 1997/ 1772 (N.I. 15), art. 25, Sch. 4; S.R. 1998/82, **art. 2**
- F1421** Sch. 9 Group 6 Note (1)(e) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 3**
- F1422** Sch. 9 Group 6 Note (1)(f) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 4**
- F1423** Words in Sch. 9 Group 6 Note (2) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 5**
- F1424** Words in Sch. 9 Group 6 Note (3) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 6**
- F1425** Sch. 9 Group 6 Note (5A) inserted (28.7.2000 for certain purposes otherwise 1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 47(4)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3)
- F1426** Words in Sch. 9 Pt. II Group 6 Note (5A) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 9(4)**; S.I. 2012/924, art. 2
- F1427** Words in Sch. 9 Pt. II Group 6 Note (5A) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(g), **Sch. 14 para. 41(4)**
- F1428** Sch. 9 Pt. II Group 6 Note (5B) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 9(5)**; S.I. 2012/924, art. 2
- F1429** Words in Sch. 9 Pt. II Group 6 Note (5B) inserted and substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 66(3)**; S.I. 2014/889, art. 7(a)

### Marginal Citations

- M48** 1980 c. 44.  
**M49** S.I.1986/594 (N.I.3).  
**M50** S.I.1989/2406 (N.I.20).  
**M51** S.I.1986/594 (N.I.3).  
**M52** 1989 c. 39.  
**M53** 1992 c. 13.

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**M54** 1992 c. 37.

**M55** S.I.1986/594 (N.I.3).

### Textual Amendments

**F1412** Words in Sch. 9 Group 6 Note (1)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 125(a)**

**F1413** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 51(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.**

**F1414** Words in Sch. 9 Group 6 Note (1)(a)(iii) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 125(b)**

**F1415** Sch. 9 Group 6 Note (1)(a)(v) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.**

**F1416** Sch. 9 Pt. 2 Group 6 Note (1)(a)(vi) (S.) repealed (31.12.2004) by Standards in Scotland's Schools etc. Act 2000 (asp 6), s. 61(2), **sch. 3**; S.S.I. 2004/528, art. 2(b)

**F1417** Sch. 9 Group 6 Note (1)(a)(vii) repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 51(b), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch.**

**F1418** Words in Sch. 9 Pt. 2 Group 6 Note (1)(c)(i) substituted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 94** (with art. 2(3))

**F1419** Word in Sch. 9 Pt. 2 Group 6 note (1)(c)(i) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, 5

**F1420** Sch. 9 Group 6 Note 1(c)(v) and preceding word inserted (1.4.1998) by S.I. 1997/ 1772 (N.I. 15), art. 25, Sch. 4; S.R. 1998/82, **art. 2**

**F1421** Sch. 9 Group 6 Note (1)(e) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 3**

**F1422** Sch. 9 Group 6 Note (1)(f) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 4**

**F1423** Words in Sch. 9 Group 6 Note (2) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 5**

**F1424** Words in Sch. 9 Group 6 Note (3) substituted (1.1.1995) by S.I. 1994/2969, **arts. 1, 6**

**F1425** Sch. 9 Group 6 Note (5A) inserted (28.7.2000 for certain purposes otherwise 1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 47(4)**; S.I. 2001/654, art. 2(2), **Sch. Pt. II** (with art. 3)

**F1426** Words in Sch. 9 Pt. II Group 6 Note (5A) substituted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 9(4)**; S.I. 2012/924, art. 2

**F1427** Words in Sch. 9 Pt. II Group 6 Note (5A) substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(3)(g), **Sch. 14 para. 41(4)**

**F1428** Sch. 9 Pt. II Group 6 Note (5B) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 16 para. 9(5)**; S.I. 2012/924, art. 2

**F1429** Words in Sch. 9 Pt. II Group 6 Note (5B) inserted and substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 66(3)**; S.I. 2014/889, art. 7(a)

### Marginal Citations

**M48** 1980 c. 44.

**M49** S.I.1986/594 (N.I.3).

**M50** S.I.1989/2406 (N.I.20).

**M51** S.I.1986/594 (N.I.3).

**M52** 1989 c. 39.

**M53** 1992 c. 13.

**M54** 1992 c. 37.

**M55** S.I.1986/594 (N.I.3).

*Status: Point in time view as at 26/07/2021.*

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**GROUP 7— HEALTH AND WELFARE**

Item No.

- 1 The supply of services <sup>F1430</sup>consisting in the provision of medical care] by a person registered or enrolled in any of the following—
  - (a) the register of medical practitioners <sup>F1431</sup>...;
  - (b) either of the registers of ophthalmic opticians or the register of dispensing opticians kept under the <sup>M56</sup>Opticians Act 1989 or either of the lists kept under section 9 of that Act of bodies corporate carrying on business as ophthalmic opticians or as dispensing opticians;
  - (c) <sup>F1432</sup>the register kept under <sup>F1433</sup>the Health Professions Order 2001]] ;
  - <sup>F1434</sup>(ca) the register of osteopaths maintained in accordance with the provisions of the Osteopaths Act 1993 <sup>F1435</sup>;
  - <sup>F1436</sup>(cb) the register of chiropractors maintained in accordance with the provisions of the Chiropractors Act 1994 <sup>M57</sup>;
  - (d) <sup>F1437</sup>the register of qualified <sup>F1438</sup>nurses, midwives and nursing associates] maintained under article 5 of the Nursing and Midwifery Order 2001];
  - <sup>F1439</sup>(e) .....

**Textual Amendments**

- F1430** Words in Sch. 9 Pt. II Group 7 item 1 inserted (1.5.2007) by [The Value Added Tax \(Health and Welfare\) Order 2007 \(S.I. 2007/206\)](#), arts. 1, 3
- F1431** Words in Sch. 9 Pt. II Group 7 omitted (coming into force in accordance with art. 1(2)(3) of the amending S.I.) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), arts. 1(2), **75(2)(a)**
- F1432** Words in Sch. 9 Pt. 2 Group 7 item 1(c) substituted (coming into force in accordance with art. 1(2)(3) of the amending S.I.) by [The Health Professions Order 2001 \(S.I. 2002/254\)](#), art. 48, **Sch. 4 para. 6** (with art. 3(19))
- F1433** Words in Sch. 9 Pt. II substituted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(2), **Sch. 5 para. 47(f)**; S.I. 2019/1436, reg. 2(s)
- F1434** Sch. 9 Group 7 item 1(ca) inserted (12.6.1998) by S.I. 1998/1294, **arts. 1, 2**
- F1435** 1993 c.21; this Act was amended by Schedule 2 to the [Chiropractors Act 1994 \(c.17\)](#).
- F1436** Sch. 9 Pt. 2 Group 7 item 1 (cb) inserted (29.6.1999) by S.I. 1999/1575, **art. 2**
- F1437** Sch. 9 Pt. 2 Group 7 item 1: words "the register of qualified nurses and midwives maintained under article 5 of the Nursing and Midwifery Order 2001" substituted for Sch. 9 Pt. II Group 7 item 1(d) (coming into force in accordance with art. 1(2)(3) of the amending S.I.) by virtue of [The Nursing and Midwifery Order 2001 \(S.I. 2002/253\)](#), art. 54, **Sch. 5 para. 12** (with art. 3(18))
- F1438** Words in Sch. 9 Pt. II substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), **Sch. 3 para. 2**
- F1439** Sch. 9 Pt. II Group 7 item 1(e) repealed (1.4.2010) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), **Sch. 15 Pt. 2**; S.I. 2010/708, art. 4(2)(d)

**Marginal Citations**

- M56** 1989 c. 44.
- M57** 1994 c. 17.

- 2 <sup>F1440</sup>The supply of any services consisting in the provision of medical care, or the supply of dental prostheses, by]—



*Status: Point in time view as at 26/07/2021.*

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- (a) a person registered in the dentists' register;
- [<sup>F1441</sup>(b) a person registered in the dental care professionals register established under section 36B of the Dentists Act 1984;]<sup>F1442</sup> ...
- <sup>F1442</sup>(c) .....

**Textual Amendments**

- F1440** Words in Sch. 9 Pt. II Group 7 item 2 substituted (1.5.2007) by [The Value Added Tax \(Health and Welfare\) Order 2007 \(S.I. 2007/206\)](#), arts. 1, **4(a)**
- F1441** Sch. 9 Group 7 item 2(b) substituted (with effect in accordance with art. 1(4)-(7) of the amending S.I.) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), **Sch. 6 para. 3** (with Sch. 7) (with transitional provisions in S.I. 2006/1671)
- F1442** Sch. 9 Pt. II Group 7 item 2(c) and word omitted (1.5.2007) by virtue of [The Value Added Tax \(Health and Welfare\) Order 2007 \(S.I. 2007/206\)](#), arts. 1, **4(b)**

[<sup>F1443</sup>2A The supply of any services or dental prostheses by a dental technician.]

**Textual Amendments**

- F1443** Sch. 9 Pt. II Group 7 item 2A inserted (1.5.2007) by [The Value Added Tax \(Health and Welfare\) Order 2007 \(S.I. 2007/206\)](#), arts. 1, **5**

3 The supply of any services [<sup>F1444</sup>consisting in the provision of medical care] by a person registered in [<sup>F1445</sup>the register maintained under article 19 of the Pharmacy Order 2010 or in the register of pharmaceutical chemists kept under] the <sup>M58</sup>Pharmacy (Northern Ireland) Order 1976.

**Textual Amendments**

- F1444** Words in Sch. 9 Pt. II Group 7 item 3 inserted (1.5.2007) by [The Value Added Tax \(Health and Welfare\) Order 2007 \(S.I. 2007/206\)](#), arts. 1, **6**
- F1445** Words in Sch. 9 Pt. II Group 7 item 3 substituted (27.9.2010) by [The Pharmacy Order 2010 \(S.I. 2010/231\)](#), art. 1(5), **Sch. 4 para. 5(3)**; S.I. 2010/1621, art. 2(1), Sch.

**Marginal Citations**

- M58** S.I.1976/1213 (N.I. 22)9.

4 The provision of care or medical or surgical treatment and, in connection with it, the supply of any goods, in any hospital [<sup>F1446</sup>or state-regulated institution].

**Textual Amendments**

- F1446** Words in Sch. 9 Pt. 2 Group 7 Item 4 substituted (21.3.2002) by [The Value Added Tax \(Health and Welfare\) Order 2002 \(S.I. 2002/762\)](#), **art. 3**

5 The provision of a deputy for a person registered in the register of medical practitioners <sup>F1447</sup> ....

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**Textual Amendments**

**F1447** Words in Sch. 9 Pt. II Group 7 omitted (coming into force in accordance with art. 1(2)(3) of the amending S.I.) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), arts. 1(2), **75(2)(b)**

- 6 Human blood.
- 7 Products for therapeutic purposes, derived from human blood.
- 8 Human (including foetal) organs or tissue for diagnostic or therapeutic purposes or medical research.
- [<sup>F1448</sup>9 The supply by—
  - (a) a charity,
  - (b) a state-regulated private welfare institution [<sup>F1449</sup>or agency], or
  - (c) a public body,
 of welfare services and of goods supplied in connection with those welfare services.]

**Textual Amendments**

**F1448** Sch. 9 Pt. 2 Group 7 Item 9 substituted (21.3.2002) by [The Value Added Tax \(Health and Welfare\) Order 2002 \(S.I. 2002/762\)](#), **art. 4**

**F1449** Words in Sch. 9 Pt. 2 Group 7 Item 9(b) inserted (31.1.2003) by [Value Added Tax \(Health and Welfare\) Order 2003 \(S.I. 2003/24\)](#), arts. 1, 2, 3

- 10 The supply, otherwise than for profit, of goods and services incidental to the provision of spiritual welfare by a religious community to a resident member of that community in return for a subscription or other consideration paid as a condition of membership.
- 11 The supply of transport services for sick or injured persons in vehicles specially designed for that purpose.

*Notes:*

- (1) Item 1 does not include the letting on hire of goods except where the letting is in connection with a supply of other services comprised in the item.
- (2) Paragraphs (a) to (d) of item 1 and paragraphs (a) and (b) of item 2 include supplies of services made by a person who is not registered or enrolled in any of the registers or rolls specified in those paragraphs where the services are wholly performed or directly supervised by a person who is so registered or enrolled.

<sup>F1450</sup>(2ZA) .....

[<sup>F1451</sup>(2A) Item 3 includes supplies of services made by a person who is not registered in either of the registers specified in that item where the services are wholly performed by a person who is so registered.]

- (3) Item 3 does not include the letting on hire of goods.

<sup>F1452</sup>(4) .....

*Status: Point in time view as at 26/07/2021.*

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- (5) In item 9 “public body” means—
- (a) a Government department within the meaning of section 41(6);
  - (b) a local authority;
  - (c) a body which acts under any enactment or instrument for public purposes and not for its own profit and which performs functions similar to those of a Government department or local authority.

- [<sup>F1453</sup>(6) In item 9 “welfare services” means services which are directly connected with—
- (a) the provision of care, treatment or instruction designed to promote the physical or mental welfare of elderly, sick, distressed or disabled persons,
  - (b) the care or protection of children and young persons, or
  - (c) the provision of spiritual welfare by a religious institution as part of a course of instruction or a retreat, not being a course or a retreat designed primarily to provide recreation or a holiday,

and, in the case of services supplied by a state-regulated private welfare institution, includes only those services in respect of which the institution is so regulated.]

- (7) Item 9 does not include the supply of accommodation or catering except where it is ancillary to the provision of care, treatment or instruction.

- [<sup>F1454</sup>(8) In this Group “state-regulated” means approved, licensed, registered or exempted from registration by any Minister or other authority pursuant to a provision of a public general Act, other than a provision that is capable of being brought into effect at different times in relation to different local authority areas.

Here “Act” means—

- (a) an Act of Parliament;
- (b) an Act of the Scottish Parliament;
- (c) an Act of the Northern Ireland Assembly;
- (d) an Order in Council under Schedule 1 to the Northern Ireland Act 1974 <sup>F1455</sup>;
- (e) a Measure of the Northern Ireland Assembly established under section 1 of the Northern Ireland Assembly Act 1973 <sup>F1456</sup>;
- (f) an Order in Council under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972 <sup>F1457</sup>;
- (g) an Act of the Parliament of Northern Ireland.]

#### Textual Amendments

**F1450**Sch. 9 Pt. II Group 7 Note (2ZA) omitted (2.12.2019) by virtue of [Children and Social Work Act 2017](#) (c. 16), s. 70(2), [Sch. 5 para. 5](#); S.I. 2019/1436, reg. 2(s)

**F1451**Sch. 9 group 7 Note (2A) inserted (1.1.1997) by S.I. 1996/2949, [arts. 1, 2](#)

**F1452**Sch. 9 Pt. II Group 7 Note (4) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007](#) (S.I. 2007/3101), regs. 1(2), [65\(b\)](#)

**F1453**Sch. 9 Pt. 2 Group 7 Note (6) substituted (21.3.2002) by [The Value Added Tax \(Health and Welfare\) Order 2002](#) (S.I. 2002/762), [art. 5](#)

**F1454**Sch. 9 Pt. 2 Group 7 Note (8) inserted (21.3.2002) by [The Value Added Tax \(Health and Welfare\) Order 2002](#) (S.I. 2002/762), [art. 6](#)

**F1455**1974 c. 28, repealed by section 100 of and Schedule 15 to the [Northern Ireland Act 1998](#) (c. 47).

**F1456**1973 c. 17, repealed by section 100 of and Schedule 15 to the [Northern Ireland Act 1998](#) (c. 47).

**F1457**1972 c. 22, repealed by section 100 of and Schedule 15 to the [Northern Ireland Act 1998](#) (c. 47).

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#### Textual Amendments

**F1450**Sch. 9 Pt. II Group 7 Note (2ZA) omitted (2.12.2019) by virtue of [Children and Social Work Act 2017](#) (c. 16), s. 70(2), **Sch. 5 para. 5**; S.I. 2019/1436, reg. 2(s)

**F1451**Sch. 9 group 7 Note (2A) inserted (1.1.1997) by S.I. 1996/2949, **arts. 1, 2**

**F1452**Sch. 9 Pt. II Group 7 Note (4) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007](#) (S.I. 2007/3101), regs. 1(2), **65(b)**

**F1453**Sch. 9 Pt. 2 Group 7 Note (6) substituted (21.3.2002) by [The Value Added Tax \(Health and Welfare\) Order 2002](#) (S.I. 2002/762), **art. 5**

**F1454**Sch. 9 Pt. 2 Group 7 Note (8) inserted (21.3.2002) by [The Value Added Tax \(Health and Welfare\) Order 2002](#) (S.I. 2002/762), **art. 6**

**F1455**1974 c. 28, repealed by section 100 of and Schedule 15 to the [Northern Ireland Act 1998](#) (c. 47).

**F1456**1973 c. 17, repealed by section 100 of and Schedule 15 to the [Northern Ireland Act 1998](#) (c. 47).

**F1457**1972 c. 22, repealed by section 100 of and Schedule 15 to the [Northern Ireland Act 1998](#) (c. 47).

### GROUP 8— BURIAL AND CREMATION

#### Item No.

- 1 The disposal of the remains of the dead.
- 2 The making of arrangements for or in connection with the disposal of the remains of the dead.

### [<sup>F1458</sup>GROUP 9— SUBSCRIPTIONS TO TRADE UNIONS, PROFESSIONAL AND OTHER PUBLIC INTEREST BODIES]

#### Textual Amendments

**F1458**Sch. 9 Pt. II Group 9: heading substituted (1.12.1999) by S.I. 1999/2834, **art. 4(a)**

#### Item No.

- 1 The supply to its members of such services and, in connection with those services, of such goods as are both referable only to its aims and available without payment other than a membership subscription by any of the following non-profit-making organisations—
  - (a) a trade union or other organisation of persons having as its main object the negotiation on behalf of its members of the terms and conditions of their employment;
  - (b) a professional association, membership of which is wholly or mainly restricted to individuals who have or are seeking a qualification appropriate to the practice of the profession concerned;
  - (c) an association, the primary purpose of which is the advancement of a particular branch of knowledge, or the fostering of professional expertise, connected with the past or present professions or employments of its members;

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- (d) an association, the primary purpose of which is to make representations to the Government on legislation and other public matters which affect the business or professional interests of its members.
- [<sup>F1459</sup>(e) a body which has objects which are in the public domain and are of a political, religious, patriotic, philosophical, philanthropic or civic nature.]

**Textual Amendments**

**F1459**Sch. 9 Pt. II Group 9 Item 1(e) added (1.12.1999) by [S.I. 1999/2834](#), **art. 4(b)**

*Note:*

- (1) Item 1 does not include any right of admission to any premises, event or performance, to which non-members are admitted for a consideration.
- (2) “Trade union” has the meaning assigned to it by section 1 of the <sup>M59</sup>Trade Union and Labour Relations (Consolidation) Act 1992.
- (3) Item 1 shall include organisations and associations the membership of which consists wholly or mainly of constituent or affiliated associations which as individual associations would be comprised in the item; and “member” shall be construed as including such an association and “membership subscription” shall include an affiliation fee or similar levy.
- (4) Paragraph (c) does not apply unless the association restricts its membership wholly or mainly to individuals whose present or previous professions or employments are directly connected with the purposes of the association.
- (5) Paragraph (d) does not apply unless the association restricts its membership wholly or mainly to individuals or corporate bodies whose business or professional interests are directly connected with the purposes of the association.

**Marginal Citations**

**M59** 1992 c. 52.

**Marginal Citations**

**M59** 1992 c. 52.

**GROUP 10— SPORT, SPORTS COMPETITIONS AND PHYSICAL EDUCATION**

*Item No.*

- 1 The grant of a right to enter a competition in sport or physical recreation where the consideration for the grant consists in money which is to be allocated wholly towards the provision of a prize or prizes awarded in that competition.
- 2 The grant, by [<sup>F1460</sup>an eligible body] established for the purposes of sport or physical recreation, of a right to enter a competition in such an activity.

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### Textual Amendments

**F1460** Words in Sch. 9 Pt. II Group 10 Item 2 substituted (1.1.2000) by [S.I. 1999/1994, art. 3](#)

- 3 The supply by [<sup>F1461</sup>an eligible body] to an individual <sup>F1462</sup>... of services closely linked with and essential to sport or physical education in which the individual is taking part.

### Textual Amendments

**F1461** Words in Sch. 9 Pt. II Group 10 Item 3 substituted (1.1.2000) by [S.I. 1999/1994, art. 3](#)

**F1462** Words in Sch. 9 Pt. II Group 10 omitted (1.1.2015) by virtue of [The Value Added Tax \(Sport\) Order 2014 \(S.I. 2014/3185\), arts. 1, 2\(2\)](#)

### Notes:

- (1) Item 3 does not include the supply of any services by [<sup>F1463</sup>an eligible body] of residential accommodation, catering or transport.
- <sup>F1464</sup>(2) . . . . .
- [<sup>F1465</sup>(2A) Subject to Notes (2C) and (3), in this Group “eligible body” means [<sup>F1463</sup>an eligible body] which—
- (a) is precluded from distributing any profit it makes, or is allowed to distribute any such profit by means only of distributions to a non-profit making body;
  - (b) applies in accordance with Note (2B) any profits it makes from supplies of a description within Item 2 or 3; and
  - (c) is not subject to commercial influence.
- (2B) For the purposes of Note (2A)(b) the application of profits made by any body from supplies of a description within Item 2 or 3 is in accordance with this Note only if those profits are applied for one or more of the following purposes, namely—
- (a) the continuance or improvement of any facilities made available in or in connection with the making of the supplies of those descriptions made by that body;
  - (b) the purposes of a non-profit making body.
- (2C) In determining whether the requirements of Note (2A) for being an eligible body are satisfied in the case of any body, there shall be disregarded any distribution of amounts representing unapplied or undistributed profits that falls to be made to the body’s members on its winding-up or dissolution.]
- (3) In Item 3 a “non-profit making body” does not include—
- (a) a local authority;
  - (b) a Government department within the meaning of section 41(6); or
  - (c) a non-departmental public body which is listed in the 1993 edition of the publication prepared by the Office of Public Service and Science and known as Public Bodies.
- [<sup>F1466</sup>(4) For the purposes of this Group a body shall be taken, in relation to a sports supply, to be subject to commercial influence if, and only if, there is a time in the relevant period when—

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- (a) a relevant supply was made to that body by a person associated with it at that time;
  - (b) an emolument was paid by that body to such a person;
  - (c) an agreement existed for either or both of the following to take place after the end of that period, namely–
    - (i) the making of a relevant supply to that body by such a person; or
    - (ii) the payment by that body to such a person of any emoluments.
- (5) In this Group “the relevant period”, in relation to a sports supply, means–
- (a) where that supply is one made before 1st January 2003, the period beginning with 14th January 1999 and ending with the making of that sports supply; and
  - (b) where that supply is one made on or after 1st January 2003, the period of three years ending with the making of that sports supply.
- (6) Subject to Note (7), in this Group “relevant supply”, in relation to any body, means a supply falling within any of the following paragraphs–
- (a) the grant of any interest in or right over land which at any time in the relevant period was or was expected to become sports land;
  - (b) the grant of any licence to occupy any land which at any such time was or was expected to become sports land;
  - (c) the grant, in the case of land in Scotland, of any personal right to call for or be granted any such interest or right as is mentioned in paragraph (a) above;
  - (d) a supply arising from a grant falling within paragraph (a), (b) or (c) above, other than a grant made before 1st April 1996;
  - (e) the supply of any services consisting in the management or administration of any facilities provided by that body;
  - (f) the supply of any goods or services for a consideration in excess of what would have been agreed between parties entering into a commercial transaction at arm’s length.
- (7) A supply which has been, or is to be or may be, made by any person shall not be taken, in relation to a sports supply made by any body, to be a relevant supply for the purposes of this Group if–
- (a) the principal purpose of that body is confined, at the time when the sports supply is made, to the provision for employees of that person of facilities for use for or in connection with sport or physical recreation, or both;
  - (b) the supply in question is one made by a charity or local authority or one which (if it is made) will be made by a person who is a charity or local authority at the time when the sports supply is made;
  - (c) the supply in question is a grant falling within Note (6)(a) to (c) which has been made, or (if it is made) will be made, for a nominal consideration;
  - (d) the supply in question is one arising from such a grant as is mentioned in paragraph (c) above and is not itself a supply the consideration for which was, or will or may be, more than a nominal consideration; or
  - (e) the supply in question–
    - (i) is a grant falling within Note (6)(a) to (c) which is made for no consideration; but
    - (ii) falls to be treated as a supply of goods or services, or (if it is made) will fall to be so treated, by reason only of the application, in

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accordance with paragraph 9 of Schedule 4, of paragraph 5 of that Schedule.

- (8) Subject to Note (10), a person shall be taken, for the purposes of this Group, to have been associated with a body at any of the following times, that is to say—
- (a) the time when a supply was made to that body by that person;
  - (b) the time when an emolument was paid by that body to that person; or
  - (c) the time when an agreement was in existence for the making of a relevant supply or the payment of emoluments,
- if, at that time, or at another time (whether before or after that time) in the relevant period, that person was an officer or shadow officer of that body or an intermediary for supplies to that body.
- (9) Subject to Note (10), a person shall also be taken, for the purposes of this Group, to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if, at that time, he was connected with another person who in accordance with that Note—
- (a) is to be taken to have been so associated at that time; or
  - (b) would be taken to have been so associated were that time the time of a supply by the other person to that body.
- (10) Subject to Note (11), a person shall not be taken for the purposes of this Group to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if the only times in the relevant period when that person or the person connected with him was an officer or shadow officer of the body are times before 1st January 2000.
- (11) Note (10) does not apply where (but for that Note) the body would be treated as subject to commercial influence at any time in the relevant period by virtue of—
- (a) the existence of any agreement entered into on or after 14th January 1999 and before 1st January 2000; or
  - (b) anything done in pursuance of any such agreement.
- (12) For the purposes of this Group a person shall be taken, in relation to a sports supply, to have been at all times in the relevant period an intermediary for supplies to the body making that supply if—
- (a) at any time in that period either a supply was made to him by another person or an agreement for the making of a supply to him by another was in existence; and
  - (b) the circumstances were such that, if—
    - (i) that body had been the person to whom the supply was made or (in the case of an agreement) the person to whom it was to be or might be made; and
    - (ii) Note (7) above were to be disregarded to the extent (if at all) that it would prevent the supply from being a relevant supply, the body would have fallen to be regarded in relation to the sports supply as subject to commercial influence.
- (13) In determining for the purposes of Note (12) or this Note whether there are such circumstances as are mentioned in paragraph (b) of that Note in the case of any supply, that Note and this Note shall be applied first for determining whether the person by whom the supply was made, or was to be or might be made, was himself



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an intermediary for supplies to the body in question, and so on through any number of other supplies or agreements.

(14) In determining for the purposes of this Group whether a supply made by any person was made by an intermediary for supplies to a body, it shall be immaterial that the supply by that person was made before the making of the supply or agreement by reference to which that person falls to be regarded as such an intermediary.

(15) Without prejudice to the generality of subsection (1AA) of section 43, for the purpose of determining—

- (a) whether a relevant supply has at any time been made to any person;
- (b) whether there has at any time been an agreement for the making of a relevant supply to any person; and
- (c) whether a person falls to be treated as an intermediary for the supplies to any body by reference to supplies that have been, were to be or might have been made to him,

references in the preceding Notes to a supply shall be deemed to include references to a supply falling for other purposes to be disregarded in accordance with section 43(1) (a).

(16) In this Group—

“agreement” includes any arrangement or understanding (whether or not legally enforceable);

“emolument” means any emolument (within the meaning of the Income Tax Acts) the amount of which falls or may fall, in accordance with the agreement under which it is payable, to be determined or varied wholly or partly by reference—

- (i) to the profits from some or all of the activities of the body paying the emolument; or
- (ii) to the level of that body’s gross income from some or all of its activities;

“employees”, in relation to a person, includes retired employees of that person;

“grant” includes an assignment or surrender;

“officer”, in relation to a body, includes—

- (i) a director of a body corporate; and
- (ii) any committee member or trustee concerned in the general control and management of the administration of the body;

“shadow officer”, in relation to a body, means a person in accordance with whose directions or instructions the members or officers of the body are accustomed to act;

“sports land”, in relation to any body, means any land used or held for use for or in connection with the provision by that body of facilities for use for or in connection with sport or physical recreation, or both;

“sports supply” means a supply which, if made by an eligible body, would fall within Item 2 or 3.

(17) For the purposes of this Group any question whether a person is connected with another shall be determined in accordance with [F<sup>1467</sup>section 1122 of the Corporation Tax Act 2010] (connected persons).]

#### Textual Amendments

F1463 Words in Sch. 9 Pt. II Group 10 Notes (1)-(3) substituted (1.1.2000) by S.I. 1999/1994, art. 3

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**F1464**Sch. 9 Pt. II Group 10 Note (2) omitted (1.1.2015) by virtue of [The Value Added Tax \(Sport\) Order 2014 \(S.I. 2014/3185\)](#), arts. 1, **2(3)**

**F1465**Sch. 9 Pt. II Group 10 Notes (2A)(2B)(2C) inserted (1.1.2000) by [S.I. 1999/1994](#), art. 4

**F1466**Sch. 9 Pt. II Group 10 Notes (4)-(17) inserted (1.1.2000) by [S.I. 1999/1994](#), art. 5

**F1467**Words in Sch. 9 Pt. II Group 10 Note (17) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 285(e)(ii)** (with Sch. 2)

#### Textual Amendments

**F1463**Words in Sch. 9 Pt. II Group 10 Notes (1)-(3) substituted (1.1.2000) by [S.I. 1999/1994](#), art. 3

**F1464**Sch. 9 Pt. II Group 10 Note (2) omitted (1.1.2015) by virtue of [The Value Added Tax \(Sport\) Order 2014 \(S.I. 2014/3185\)](#), arts. 1, **2(3)**

**F1465**Sch. 9 Pt. II Group 10 Notes (2A)(2B)(2C) inserted (1.1.2000) by [S.I. 1999/1994](#), art. 4

**F1466**Sch. 9 Pt. II Group 10 Notes (4)-(17) inserted (1.1.2000) by [S.I. 1999/1994](#), art. 5

**F1467**Words in Sch. 9 Pt. II Group 10 Note (17) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 285(e)(ii)** (with Sch. 2)

## GROUP 11— WORKS OF ART ETC

### Item No.

- 1 The disposal of an object with respect to which estate duty is not chargeable by virtue of section 30(3) of the <sup>M60</sup>Finance Act 1953, section 34(1) of the <sup>M61</sup>Finance Act 1956 or the proviso to section 40(2) of the <sup>M62</sup>Finance Act 1930.

#### Marginal Citations

**M60** 1953 c.34.

**M61** 1956 c.54.

**M62** 1930 c.28.

- 2 The disposal of an object with respect to which inheritance tax is not chargeable by virtue of paragraph 1(3)(a) or (4), paragraph 3(4)(a), or the words following paragraph 3(4), of Schedule 5 to the <sup>M63</sup>Inheritance Tax Act 1984.

#### Marginal Citations

**M63** 1984 c.51.

- 3 The disposal of property with respect to which inheritance tax is not chargeable by virtue of section 32(4) or 32A(5) or (7) of the <sup>M64</sup>Inheritance Tax Act 1984.

#### Marginal Citations

**M64** 1984 c.51.

- 4 The disposal of an asset in a case in which any gain accruing on that disposal is not a chargeable gain by virtue of section 258(2) of the <sup>M65</sup>Taxation of Chargeable Gains Act 1992.

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#### Marginal Citations

M65 1992 c.12.

### [<sup>F1468</sup>GROUP 12—FUND-RAISING EVENTS BY CHARITIES AND OTHER QUALIFYING BODIES]

#### Textual Amendments

**F1468**Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by [S.I. 2000/802](#), **art. 3**

#### Item No.

- <sup>F1469</sup>1 The supply of goods and services by a charity in connection with an event—
- (a) that is organised for charitable purposes by a charity or jointly by more than one charity,
  - (b) whose primary purpose is the raising of money, and
  - (c) that is promoted as being primarily for the raising of money.

#### Textual Amendments

**F1469**Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by [S.I. 2000/802](#), **art. 3**

- <sup>F1470</sup>2 The supply of goods and services by a qualifying body in connection with an event—
- (a) that is organised exclusively for the body's own benefit,
  - (b) whose primary purpose is the raising of money, and
  - (c) that is promoted as being primarily for the raising of money.

#### Textual Amendments

**F1470**Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by [S.I. 2000/802](#), **art. 3**

- <sup>F1471</sup>3 The supply of goods and services by a charity or a qualifying body in connection with an event—
- (a) that is organised jointly by a charity, or two or more charities, and the qualifying body,
  - (b) that is so organised exclusively for charitable purposes or exclusively for the body's own benefit or exclusively for a combination of those purposes and that benefit,
  - (c) whose primary purpose is the raising of money, and
  - (d) that is promoted as being primarily for the raising of money.

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### Textual Amendments

**F1471** Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by [S.I. 2000/802](#), **art. 3**

### Notes:

- (1) For the purposes of this Group “event” includes an event accessed (wholly or partly) by means of electronic communications.
- For this purpose “electronic communications” includes any communications by means of <sup>F1472</sup>[an electronic communications network].
- <sup>F1473</sup>(2) For the purposes of this Group “charity” includes a body corporate that is wholly owned by a charity if—
- the body has agreed in writing (whether or not contained in a deed) to transfer its profits (from whatever source) to a charity, or
  - the body’s profits (from whatever source) are otherwise payable to a charity.
- (3) For the purposes of this Group “qualifying body” means—
- any non-profit making organisation mentioned in item 1 of Group 9;
  - any body that is an eligible body for the purposes of Group 10 and whose principal purpose is the provision of facilities for persons to take part in sport or physical education; or
  - any body that is an eligible body for the purposes of item 2 of Group 13.
- (4) Where in a financial year of a charity or qualifying body there are held at the same location more than 15 events involving the charity or body that are of the same kind, items 1 to 3 do not apply (or shall be treated as having not applied) to a supply in connection with any event involving the charity or body that is of that kind and is held in that financial year at that location.
- (5) In determining whether the limit of 15 events mentioned in Note (4) has been exceeded in the case of events of any one kind held at the same location, disregard any event of that kind held at that location in a week during which the aggregate gross takings from events involving the charity or body that are of that kind and are held in that location do not exceed £1,000.
- (6) In the case of a financial year that is longer or shorter than a year, Notes (4) and (5) have effect as if for “15” there were substituted the whole number nearest to the number obtained by—
- first multiplying the number of days in the financial year by 15, and
  - then dividing the result by 365.
- (7) For the purposes of Notes (4) and (5)—
- an event involves a charity if the event is organised by the charity or a connected charity;
  - an event involves a qualifying body if the event is organised by the body.

### Textual Amendments

**F1472** Words in Sch. 9 Pt. 2 Group 12 Note (1) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 129(3)** (with

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Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F1473**Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by S.I. 2000/802, **art. 3**

#### Textual Amendments

**F1472**Words in Sch. 9 Pt. 2 Group 12 Note (1) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 17 para. 129(3)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F1473**Sch. 9 Group 12 items 1-3, Notes (1)-(11) substituted for Sch. 9 Group 12 items 1-2, Notes (1)-(3) (1.4.2000) by S.I. 2000/802, **art. 3**

### [<sup>F1476</sup>GROUP 13— CULTURAL SERVICES ETC

#### Textual Amendments

**F1476**Sch. 9 Pt. 2 Group 13 inserted (1.6.1996) by S.I. 1996/1256, **arts. 1, 2(b)**

#### Item No.

- 1 The supply by a public body of a right of admission to—
  - (a) a museum, gallery, art exhibition or zoo; or
  - (b) a theatrical, musical or choreographic performance of a cultural nature.
- 2 The supply by an eligible body of a right of admission to—
  - (a) a museum, gallery, art exhibition or zoo; or
  - (b) a theatrical, musical or choreographic performance of a cultural nature.

#### Notes:

- (1) For the purposes of this Group “public body” means—
  - (a) a local authority;
  - (b) a government department within the meaning of section 41(6); or
  - (c) a non-departmental public body which is listed in the 1995 edition of the publication prepared by the Office of Public Service and known as “Public Bodies”.
- (2) For the purposes of item 2 “eligible body” means any body (other than a public body) which—
  - (a) is precluded from distributing, and does not distribute, any profit it makes;
  - (b) applies any profits made from supplies of a description falling within item 2 to the continuance or improvement of the facilities made available by means of the supplies; and
  - (c) is managed and administered on a voluntary basis by persons who have no direct or indirect financial interest in its activities.

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- (3) Item 1 does not include any supply the exemption of which would be likely to create distortions of competition such as to place a commercial enterprise carried on by a taxable person at a disadvantage.
- (4) Item 1(b) includes the supply of a right of admission to a performance only if the performance is provided exclusively by one or more public bodies, one or more eligible bodies or any combination of public bodies and eligible bodies.]

### <sup>F1477</sup>GROUP 14—SUPPLIES OF GOODS WHERE INPUT TAX CANNOT BE RECOVERED

#### Textual Amendments

**F1477**Sch. 9 Pt. II Group 14 added (1.3.2000) by [S.I. 1999/2833](#), **art. 2(3)**

#### Item No.

- <sup>F1478</sup> 1 A supply of goods in relation to which each of the following conditions is satisfied, that is to say—
- (a) there is input tax of the person making the supply (“the relevant supplier”), or of any predecessor of his, that has arisen or will arise on the supply to, <sup>F1479</sup>... or importation by, the relevant supplier or any such predecessor of goods used for the supply made by the relevant supplier;
  - (b) the only such input tax is non-deductible input tax; and
  - (c) the supply made by the relevant supplier is not a supply which would be exempt under Item 1 of Group 1 of Schedule 9 but for an <sup>F1480</sup>option to tax any land under Part 1 of Schedule 10].

#### Textual Amendments

**F1478**Sch. 9 Pt. II Group 14 Item 1 added (1.3.2000) by [S.I. 1999/2833](#), **art. 2(3)**

**F1479**Words in [Sch. 9 Pt. II](#) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 95(3)(a)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 7 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

**F1480**Words in [Sch. 9 Pt. II Group 14 item 1 para \(c\)](#) substituted (with effect in accordance with [art. 1\(2\)](#) of the amending [S.I.](#)) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), [art. 1\(1\)](#), **Sch. 1 para. 4** (with [Sch. 2](#))

#### <sup>F1481</sup>Notes:

- (1) Subject to Note (2) below, in relation to any supply of goods by the relevant supplier, the goods used for that supply are—
  - (a) the goods supplied; and
  - (b) any goods used in the process of producing the supplied goods so as to be comprised in them.
- (2) In relation to a supply by any person consisting in or arising from the grant of a major interest in land (“the relevant supply”)—

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- (a) any supply consisting in or arising from a previous grant of a major interest in the land is a supply of goods used for the relevant supply; and
  - (b) subject to paragraph (a) above, the goods used for the relevant supply are any goods used in the construction of a building or civil engineering work so as to become part of the land.
- (3) Subject to Notes (7) to (10) below, non-deductible input tax is input tax to which Note (4) or (5) below applies.
- (4) This Note applies to input tax which (disregarding this Group and regulation 106 of the Value Added Tax Regulations 1995 <sup>F1482</sup> (de minimis rule)) is not, and will not become, attributable to supplies to which section 26(2) applies.
- (5) This Note applies to input tax if—
  - (a) disregarding this Group and the provisions mentioned in Note (6) below, the relevant supplier or a predecessor of his has or will become entitled to credit for the whole or a part of the amount of that input tax; and
  - (b) the effect (disregarding this Group) of one or more of those provisions is that neither the relevant supplier nor any predecessor of his has or will become entitled to credit for any part of that amount.
- (6) The provisions mentioned in Note (5) above are—
  - (a) Article 5 of the Value Added Tax (Input Tax) Order 1992 <sup>F1483</sup> (no credit for input tax on goods or services used for business entertainment);
  - (b) Article 6 <sup>F1484</sup> of that Order (no credit for input tax on non-building materials incorporated in a building or site);
  - (c) Article 7 <sup>F1485</sup> of that Order (no credit for input tax on motor cars);
  - (d) any provision directly or indirectly re-enacted (with or without modification) in a provision mentioned in paragraphs (a) to (c) above.
- (7) For the purposes of this Group the input tax of a person shall be deemed to include any VAT which—
  - (a) has arisen or will arise on a supply to, <sup>F1486</sup> ... or importation by, that person; and
  - (b) would fall to be treated as input tax of that person but for its arising when that person is not a taxable person.
- (8) Subject to Note (9) below, the input tax that is taken to be non-deductible input tax shall include any VAT which—
  - (a) is deemed to be input tax of any person by virtue of Note (7) above; and
  - (b) would be input tax to which Note (4) or (5) above would apply if it were input tax of that person and, in the case of a person to whom section 39 applies, if his business were carried on in the United Kingdom.
- (9) Non-deductible input tax does not include any VAT that has arisen or will arise on a supply to, <sup>F1487</sup> ... or importation by, any person of any goods used for a supply of goods (“the relevant supply”) if—
  - (a) that VAT ; or
  - (b) any other VAT arising on the supply to, <sup>F1488</sup> ... or importation by, that person or any predecessor of his of any goods used for the relevant supply,

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has been or will be refunded under section 33, [<sup>F1489</sup>33A,][<sup>F1490</sup>33B,][<sup>F1491</sup>33C,] 39 or 41.

- (10) Input tax arising on a supply<sup>F1492</sup> ... or importation of goods shall be disregarded for the purposes of determining whether the conditions in Item No. 1(a) and (b) are satisfied if, at a time after that supply<sup>F1492</sup> ... or importation but before the supply by the relevant supplier, a supply of the goods or of anything in which they are comprised is treated under or by virtue of any provision of this Act as having been made by the relevant supplier or any predecessor of his to himself.
- (11) In relation to any goods or anything comprised in any goods, a person is a predecessor of another (“the putative successor”) only if Note (12) or (13) below applies to him in relation to those goods or that thing; and references in this Group to a person’s predecessors include references to the predecessors of his predecessors through any number of transfers and events such as are mentioned in Notes (12) and (13).
- (12) This Note applies to a person in relation to any goods or thing if—
- (a) the putative successor is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;
  - (b) those assets consisted of or included those goods or that thing; and
  - (c) the transfer of the assets is one falling by virtue of an Order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services.
- (13) This Note applies to a [<sup>F1493</sup>person] in relation to any goods or thing if—
- (a) those goods or that thing formed part of the assets of the business of that [<sup>F1494</sup>person] at a time when it became a member of a group of which the putative successor was at that time the representative member;
  - (b) those goods or that thing formed part of the assets of the business of that [<sup>F1495</sup>person, or of any other person who] was a member of the same group as that [<sup>F1496</sup>person, at a time when that person] was succeeded as the representative member of the group by the putative successor; or
  - (c) those goods or that thing formed part of the assets of the putative successor at a time when it ceased to be a member of a group of which the [<sup>F1497</sup>person] in question was at the time the representative member.
- (14) References in Note (13) above to a [<sup>F1498</sup>person's] being or becoming or ceasing to be a member of a group or the representative member of a group are references to its falling to be so treated for the purposes of section 43.
- (15) In Notes (11) to (13) above the references to anything comprised in other goods shall be taken, in relation to any supply consisting in or arising from the grant of a major interest in land, to include anything the supply<sup>F1499</sup> ... or importation of which is, by virtue of Note (2) above, taken to be a supply<sup>F1499</sup> ... or importation of goods used for making the supply so consisting or arising.
- (16) Notes (1) and (1A) to Group 1 shall apply for the purposes of this Group as they apply for the purposes of that Group.]

#### Textual Amendments

F1482S.I. 1995/2518.



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- F1483** S.I. 1992/3222; Article 5 was amended by S.I. 1995/281.
- F1484** Article 6 was amended by S.I. 1995/281.
- F1485** Article 7 was amended by S.I. 1995/281 and S.I. 1995/1666.
- F1486** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1487** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(c)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1488** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(c)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1489** Word in Sch. 9 Group 14 Note (9) inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. **98(9)(10)(11)**
- F1490** Word in Sch. 9 Pt. II Group 14 Note (9) inserted (with effect in accordance with s. 76(5) of the amending Act) by Finance Act 2011 (c. 11), s. **76(4)**
- F1491** Word in Sch. 9 Pt. II Group 14 Note (9) inserted (with effect in accordance with s. 66(5) of the amending Act) by Finance Act 2015 (c. 11), s. **66(4)**
- F1492** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(d)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1493** Word in Sch. 9 Pt. II Group 14 Note (13) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(a)**; S.I. 2019/1348, reg. 2
- F1494** Word in Sch. 9 Pt. II Group 14 Note (13)(a) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(b)**; S.I. 2019/1348, reg. 2
- F1495** Words in Sch. 9 Pt. II Group 14 Note (13)(b) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(c)(i)**; S.I. 2019/1348, reg. 2
- F1496** Words in Sch. 9 Pt. II Group 14 Note (13)(b) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(c)(ii)**; S.I. 2019/1348, reg. 2
- F1497** Word in Sch. 9 Pt. II Group 14 Note (13)(c) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(d)**; S.I. 2019/1348, reg. 2
- F1498** Word in Sch. 9 Pt. II Group 14 Note (14) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(3)**; S.I. 2019/1348, reg. 2
- F1499** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(e)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### Textual Amendments

- F1481** Sch. 9 Pt. II Group 14 Notes added (1.3.2000) by S.I. 1999/2833, **art. 2(3)**
- F1482** S.I. 1995/2518.
- F1483** S.I. 1992/3222; Article 5 was amended by S.I. 1995/281.
- F1484** Article 6 was amended by S.I. 1995/281.
- F1485** Article 7 was amended by S.I. 1995/281 and S.I. 1995/1666.
- F1486** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I.

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- 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1487** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(c)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1488** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(c)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1489** Word in Sch. 9 Group 14 Note (9) inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. **98(9)(10)(11)**
- F1490** Word in Sch. 9 Pt. II Group 14 Note (9) inserted (with effect in accordance with s. 76(5) of the amending Act) by Finance Act 2011 (c. 11), s. **76(4)**
- F1491** Word in Sch. 9 Pt. II Group 14 Note (9) inserted (with effect in accordance with s. 66(5) of the amending Act) by Finance Act 2015 (c. 11), s. **66(4)**
- F1492** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(d)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1493** Word in Sch. 9 Pt. II Group 14 Note (13) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(a)**; S.I. 2019/1348, reg. 2
- F1494** Word in Sch. 9 Pt. II Group 14 Note (13)(a) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(b)**; S.I. 2019/1348, reg. 2
- F1495** Words in Sch. 9 Pt. II Group 14 Note (13)(b) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(c)(i)**; S.I. 2019/1348, reg. 2
- F1496** Words in Sch. 9 Pt. II Group 14 Note (13)(b) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(c)(ii)**; S.I. 2019/1348, reg. 2
- F1497** Word in Sch. 9 Pt. II Group 14 Note (13)(c) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(2)(d)**; S.I. 2019/1348, reg. 2
- F1498** Word in Sch. 9 Pt. II Group 14 Note (14) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), **Sch. 18 para. 13(3)**; S.I. 2019/1348, reg. 2
- F1499** Words in Sch. 9 Pt. II omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 95(3)(e)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

## <sup>F1500</sup>GROUP 15—INVESTMENT GOLD

### Textual Amendments

**F1500** Sch. 9 Pt. 2 Group 15 added (1.1.2000) by S.I. 1999/3116, art. 2(3)

Item No.

<sup>F1501</sup> 1 The supply of investment gold.

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#### Textual Amendments

**F1501** Sch. 9 Pt. 2 Group 15 Item 1 added (1.1.2000) by **S.I. 1999/3116, art. 2(3)**

- F1502** 2 The grant, assignment or surrender of any right, interest, or claim in, over or to investment gold if the right, interest or claim is or confers a right to the transfer of the possession of investment gold.

#### Textual Amendments

**F1502** Sch. 9 Pt. 2 Group 15 Item 2 added (1.1.2000) by **S.I. 1999/3116, art. 2(3)**

- F1503** 3 The supply, by a person acting as agent for a disclosed principal, of services consisting of—
- (a) the effecting of a supply falling within item 1 or 2 that is made by or to his principal, or
  - (b) attempting to effect a supply falling within item 1 or 2 that is intended to be made by or to his principal but is not in fact made.

#### Textual Amendments

**F1503** Sch. 9 Pt. 2 Group 15 Item 3 added (1.1.2000) by **S.I. 1999/3116, art. 2(3)**

**F1504** Notes:

- (1) For the purposes of this Group “investment gold” means—
  - (a) gold of a purity not less than 995 thousandths that is in the form of a bar, or a wafer, of a weight accepted by the bullion markets;
  - (b) a gold coin minted after 1800 that—
    - (i) is of a purity of not less than 900 thousandths,
    - (ii) is, or has been, legal tender in its country of origin, and
    - (iii) is of a description of coin that is normally sold at a price that does not exceed 180% of the open market value of the gold contained in the coin; or
  - (c) a gold coin of a description specified in a notice that has been published by the Commissioners for the purposes of this Group and has not been withdrawn.
- (2) A notice under Note (1)(c) may provide that a description specified in the notice has effect only for the purposes of supplies made at times falling within a period specified in the notice.
- (3) Item 2 does not include—
  - (a) the grant of an option, or
  - (b) the assignment or surrender of a right under an option at a time before the option is exercised.
- (4) This Group does not include a supply—
  - (a) between members of the London Bullion Market Association, or

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- (b) by a member of that Association to a taxable person who is not a member or by such a person to a member.]

**Textual Amendments**

**F1504**Sch. 9 Pt. 2 Group 15 Notes added (1.1.2000) by S.I. 1999/3116, art. 2(3)

**[<sup>F1505</sup>GROUP 16 — SUPPLIES OF SERVICES  
 BY GROUPS INVOLVING COST SHARING**

**Textual Amendments**

**F1505**Sch. 9 Pt. II Group 16 inserted (17.7.2012) by Finance Act 2012 (c. 14), s. 197(2)

*Item No*

- 1 The supply of services by an independent group of persons where each of the following conditions is satisfied—
- (a) each of those persons is a person who is carrying on an activity (“the relevant activity”) which is exempt from VAT or [<sup>F1506</sup>is not carried on in the course or furtherance of carrying on a business,]
  - (b) the supply of services is made for the purpose of rendering the members of the group the services directly necessary for the exercise of the relevant activity,
  - (c) the group merely claims from its members exact reimbursement of their share of the joint expenses, and
  - (d) the exemption of the supply is not likely to cause distortion of competition.]

**Textual Amendments**

**F1506**Words in Sch. 9 Pt. II substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 95(4) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 7 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**[<sup>F1507</sup>SCHEDULE 9ZA**

Section 40A(1)

VAT ON ACQUISITIONS IN NORTHERN IRELAND FROM MEMBER STATES

**Textual Amendments**

**F1507**Schs. 9ZA, 9ZB inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), Sch. 2 para. 2 (with s. 3(4), Sch. 2 para. 7(7)-(10)) (with savings and transitional provisions in S.I. 2020/1545, Pt. 4); S.I. 2020/1642, reg. 9

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## PART 1

### CHARGE TO VAT FOR ACQUISITIONS IN NORTHERN IRELAND FROM MEMBER STATES

#### *Charge to VAT*

- 1 (1) VAT is charged, in accordance with this Schedule, on the acquisition in Northern Ireland of goods from a member State—
  - (a) by reference to the value of the acquisition as determined under Part 2 of this Schedule, and
  - (b) subject to paragraph 16, at the rate of VAT for the time being in force under section 2.
- (2) VAT charged on the acquisition of goods in Northern Ireland from a member State is a liability of the person who acquires the goods and (subject to provisions about accounting and payment) becomes due at the time of acquisition.
- (3) VAT charged on the acquisition of goods in Northern Ireland from a member State in accordance with this Schedule is referred to in this Schedule as “NI acquisition VAT”.
- (4) References to VAT (without more) in this Act include NI acquisition VAT.
- (5) The Commissioners may by regulations make provision about (including provision modifying) the application of provision that applies to value added tax made by or under any enactment (including provision made by or under this Act) to NI acquisition VAT or to goods acquired in Northern Ireland from a member State.

#### *Scope of NI acquisition VAT*

- 2 (1) NI acquisition VAT is charged on any acquisition from a member State of any goods where—
  - (a) the acquisition is a taxable acquisition,
  - (b) it takes place in Northern Ireland,
  - (c) it is not in pursuance of a taxable supply (see section 4(2)), and
  - (d) the person who makes it is a taxable person or the goods acquired are subject to a duty of excise or consist in a new means of transport.
- (2) In this Act, a “taxable acquisition” means an acquisition of goods from a member State that—
  - (a) is not an exempt acquisition (see paragraph 17(5)), and
  - (b) falls within sub-paragraph (3) or is an acquisition of goods consisting in a new means of transport.
- (3) An acquisition of goods from a member State falls within this sub-paragraph if—
  - (a) the goods are acquired in the course or furtherance of—
    - (i) any business carried on by any person, or
    - (ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body,
  - (b) it is the person who carries on that business or those activities who acquires the goods, and
  - (c) the supplier—

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- (i) is taxable in a member State at the time of the transaction in pursuance of which the goods are acquired, and
- (ii) in participating in that transaction, acts in the course or furtherance of a business carried on by the supplier.

*Meaning of acquisition of goods from a member State*

- 3 (1) References in this Act to the acquisition of goods from a member State are to an acquisition of goods in pursuance of a transaction that—
- (a) is a supply of goods (including anything treated for the purposes of this Act as a supply of goods), and
  - (b) involves the removal of the goods from a member State (whether by or under the direction of the supplier, the person who acquires the goods or any other person),
- and references in this Act, in relation to such an acquisition, to the supplier are to be construed accordingly.
- (2) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply is to be treated for the purposes of this Act as a transaction in pursuance of which there is an acquisition by the person making the supply.
- (3) The Treasury may by regulations make provision about the circumstances in which an acquisition of goods is not to be treated as an acquisition of goods from a member State.

*Time of acquisition*

- 4 (1) For the purposes of this Act, the normal rule for determining the time that goods were acquired from a member State is that they are treated as being acquired on the earlier of—
- (a) the 15th day of the month after the month in which the first removal of the goods occurs, and
  - (b) the day a relevant invoice is issued in respect of the transaction in pursuance of which the goods were acquired.
- (2) But—
- (a) different rules apply to acquisitions to which Part 4 of Schedule 9ZB applies (warehouses), and
  - (b) the Commissioners may by regulations provide for different rules to apply in any case described in those regulations.
- (3) Regulations under sub-paragraph (2)(b) may include provision treating an acquisition as a series of acquisitions taking place at different times.
- (4) In sub-paragraph (1) “relevant invoice” means an invoice of a description prescribed by regulations made by the Commissioners.
- (5) For the purposes of this Act “first removal”, in relation to goods acquired, means the first removal of the goods in the course of the transaction in pursuance of which they are acquired.

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### *Place of acquisition*

- 5 (1) For the purposes of this Act, the normal rule for determining whether goods are acquired in Northern Ireland is that they are treated as being acquired in Northern Ireland if—
- (a) they are acquired in pursuance of a transaction which involves their removal from a member State to Northern Ireland and which does not involve their removal from Northern Ireland, or
  - (b) they are acquired by a person who, for the purposes of their acquisition, makes use of a number assigned to the person for the purposes of VAT in the United Kingdom along with an NI VAT identifier (see paragraph 7).
- (2) But—
- (a) goods are not treated as being acquired in Northern Ireland by virtue of sub-paragraph (1)(b) where it is established in accordance with regulations made by the Commissioners that VAT—
    - (i) has been paid in a member State on the acquisition of those goods, and
    - (ii) fell to be paid by virtue of provisions of the law of that member State corresponding, in relation to that member State, to the provision made by sub-paragraph (1)(a), and
  - (b) different rules apply to acquisitions to which paragraph 16 or 17 of Schedule 9ZB applies.
- (3) If an acquisition of goods is not treated, for the purposes of this Act, as taking place in Northern Ireland it is treated for those purposes as an acquisition taking place outside Northern Ireland.
- (4) The Commissioners may by regulations make provision—
- (a) about the circumstances in which a person is to be treated as having made use of a number assigned to the person for the purposes of VAT in the United Kingdom along with an NI VAT identifier for the purposes of the acquisition of any goods, and
  - (b) for the refund, in prescribed circumstances, of NI acquisition VAT paid on acquisitions of goods in relation to which the conditions in sub-paragraph (2) (a)(i) and (ii) are met.

### *Acquisitions from persons belonging in member States*

- 6 (1) Sub-paragraph (2) applies where—
- (a) a person (“the original supplier”) makes a supply of goods to a person who belongs in a member State (“the intermediate supplier”),
  - (b) that supply involves the removal of the goods from a member State and their removal to Northern Ireland but does not involve the removal of the goods from Northern Ireland,
  - (c) both that supply and the removal of the goods to Northern Ireland are for the purposes of the making of a supply by the intermediate supplier to another person (“the customer”) who is registered under this Act,
  - (d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State, and

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- (e) there would be a taxable acquisition by the customer if the supply to the customer involved the removal of goods from a member State to Northern Ireland.
- (2) Where this sub-paragraph applies—
- (a) the supply by the original supplier to the intermediate supplier is ignored for the purposes of this Act, and
  - (b) the supply by the intermediate supplier to the customer is treated for the purposes of this Act, other than for the purposes of Part 8 of this Schedule, as if it did involve the removal of the goods from a member State to Northern Ireland.
- (3) For the purposes of this Act, other than for the purposes of Part 8 of this Schedule, a supply of goods is treated as involving their removal from a member State to Northern Ireland, and is treated as not being a taxable supply if—
- (a) the supply is made by a person belonging in a member State to a person who is registered under this Act,
  - (b) the supply involves the installation or assembly of the goods at a place in Northern Ireland to which they are removed, and
  - (c) were the supply to be treated as described in the words before paragraph (a), there would be a taxable acquisition by the registered person.
- (4) But neither sub-paragraph (2) nor sub-paragraph (3) applies in relation to a supply unless—
- (a) in the case of sub-paragraph (2), the intermediate supplier, or
  - (b) in the case of sub-paragraph (3), the person making the supply,
- complies with such requirements to provide information to the Commissioners or to the person supplied as may be specified in regulations made by the Commissioners.
- (5) The requirements to provide information that may be specified in regulations include—
- (a) requirements to provide documents (for example, invoices);
  - (b) requirements to provide information or documents before a supply is made (as well as after);
  - (c) requirements as to the content and form of information or documents to be provided;
  - (d) requirements as to the manner in which information or documents are to be provided.
- (6) Where a taxable acquisition is treated as having been made by virtue of this paragraph, that acquisition is treated as taking place at the time referred to in paragraph 4(1)(b) (day on which invoice issued).
- (7) For the purposes of this paragraph a person belongs in a member State if—
- (a) the person is taxable in a member State,
  - (b) the person does not have any business establishment or other fixed establishment in Northern Ireland,
  - (c) the person's usual place of residence is not in Northern Ireland,
  - (d) the person is not identified for the purposes of VAT in Northern Ireland and is not required, as a result of regulations under paragraph 7, to make a request to be so identified, and



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- (e) the person does not have a VAT representative who is identified for the purposes of VAT in Northern Ireland in connection with acting on the person's behalf, and is not for the time being required to appoint one who would be identified for those purposes.
- (8) In determining, for the purposes of sub-paragraph (7)(d), whether a person is required to be registered under this Act, ignore any supplies made by the person that would be ignored for the purposes of this Act if the person belonged in a member State and complied with the information requirements that would apply by virtue of sub-paragraph (4).
- (9) Where—
  - (a) any goods are acquired from a member State in a case which corresponds, in relation to another member State, to the case described in sub-paragraph (1) in relation to Northern Ireland, and
  - (b) the person who acquires the goods is registered under this Act, is identified for the purposes of VAT in Northern Ireland and would be the intermediate supplier in relation to that corresponding case,the supply to that person of those goods and the supply by that person of those goods to the person who would be the customer in that corresponding case are to be ignored for the purposes of this Act.
- (10) References in this paragraph to a person being taxable in a member State do not include references to a person who is so taxable by virtue only of provisions of the law of that member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if the person is required to be so registered.

*Identification of persons for the purposes of VAT in Northern Ireland*

- 7
- (1) The Commissioners may by regulations make provision for the identification of persons for the purposes of VAT in Northern Ireland.
  - (2) In this Act “identified for the purposes of VAT in Northern Ireland” means identified in accordance with regulations under this paragraph.
  - (3) A person may only be identified for the purposes of VAT in Northern Ireland if—
    - (a) the person is registered under this Act, or
    - (b) the person acts on behalf of a person in relation to VAT in Northern Ireland as a VAT representative.
  - (4) Regulations may make provision—
    - (a) about the circumstances in which a person may request to be identified for the purposes of VAT in Northern Ireland;
    - (b) for a person to be required to request to be identified for the purposes of Northern Ireland VAT;
    - (c) about the circumstances in which the Commissioners may determine that a person is identified for the purposes of VAT in Northern Ireland otherwise than at the person's request;
    - (d) requiring a person to notify the Commissioners of such matters as may be specified for the purpose of allowing the Commissioners to ascertain whether a person should be identified for the purposes VAT in Northern Ireland;

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- (e) about the circumstances in which a person is to be treated, for such purposes as may be specified, as if they were identified for the purposes of VAT in Northern Ireland (and which may include circumstances where the person is neither registered under this Act nor acting as a VAT representative);
  - (f) about the circumstances in which a person ceases to be identified for the purposes of VAT in Northern Ireland.
- (5) Regulations may also make provision—
- (a) about a specified means of communicating the fact of a person's identification for the purposes of VAT in Northern Ireland (and that means is referred to in this Act as an “NI VAT identifier”);
  - (b) about the circumstances in which a person may use, or is required to use, an NI VAT identifier (for example, in connection with the making of a transaction or return).
- (6) In this paragraph “specified” means specified in regulations.

## PART 2

### VALUATION OF ACQUISITIONS

#### *Valuation of acquisitions from member States*

- 8 (1) For the purposes of this Act the value of any acquisition of goods from a member State is taken to be the value of the transaction in pursuance of which they are acquired.
- (2) Where goods are acquired from a member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired is to be determined for the purposes of sub-paragraph (1) in accordance with this Part, and for those purposes—
- (a) sub-paragraphs (3) to (5) have effect subject to paragraphs 9 to 13, and
  - (b) section 19 and Schedule 6 do not apply in relation to the transaction.
- (3) If the transaction is for a consideration in money, its value is taken to be such amount as is equal to the consideration.
- (4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value is taken to be such amount in money as is equivalent to the consideration.
- (5) Where a transaction in pursuance of which goods are acquired from a member State is not the only matter to which a consideration in money relates, the transaction is deemed to be for such part of the consideration as is properly attributable to it.

#### *Transactions below market value*

- 9 (1) Where, in the case of the acquisition of any goods from a member State—
- (a) the relevant transaction (see paragraph 13) is for a consideration in money,
  - (b) the value of the relevant transaction is (apart from this paragraph) less than the transaction’s open market value,
  - (c) the supplier and the person who acquires the goods are connected, and

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- (d) that person is not entitled under sections 25 and 26 to credit for all the VAT on the acquisition,  
the Commissioners may direct that the value of the relevant transaction is taken to be its open market value.
- (2) A direction under this paragraph must be given—
- (a) by notice in writing to the person by whom the acquisition in question is made, and
  - (b) within the period of 3 years commencing with the relevant time (see paragraph 13).
- (3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction—
- (a) in pursuance of which goods are acquired by the person from a member State after the giving of the notice, or after such later date as may be specified in the notice, and
  - (b) as to which the conditions in paragraphs (a) to (d) of sub-paragraph (1) are satisfied,
- is to be taken to be its open market value.
- (4) For the purposes of this paragraph, the open market value of a transaction in pursuance of which goods are acquired from a member State is to be taken to be the amount which would fall to be taken as its value under paragraph 8(3) if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (5) Section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies for the purpose of determining whether a person is connected with another for the purposes of this paragraph.
- (6) A direction under this paragraph may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

*Value where goods subject to excise duty etc*

- 10 (1) This paragraph applies, in such cases as the Commissioners may by regulations prescribe, to an acquisition—
- (a) of goods acquired in Northern Ireland from a member State,
  - (b) where those goods are charged with a relevant duty, and
  - (c) that is not an acquisition that is treated, by virtue of paragraph 16(7) of Schedule 9ZB, as taking place before the time which is the duty point (within the meaning given by paragraph 16(11) of that Schedule).
- (2) The value of the relevant transaction in relation to an acquisition to which this paragraph applies is the sum of the value of that transaction (apart from this paragraph) and the total amount of relevant duty charged that is not already reflected in the value of that transaction.
- (3) In this paragraph “relevant duty” in relation to an acquisition means—
- (a) a duty of excise charged in connection with the removal of goods to Northern Ireland;
  - (b) any EU customs duty or agricultural levy of the European Union charged on that removal in accordance with any provision for the time being having

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effect for transitional purposes in connection with the accession of any State to the European Union.

*Transfer or disposal for no consideration*

- 11 (1) Where goods are acquired from a member State in pursuance of anything which is treated as a supply for the purposes of this Act as a result of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB and there is no consideration, sub-paragraph (3) applies for determining the value of the relevant transaction.
- (2) Sub-paragraph (3) also applies for determining the value of the relevant transaction in the case of an acquisition by a supplier that is deemed to take place as a result of paragraph 60(2)(c) or 61(2)(c).
- (3) The value of the relevant transaction is taken to be—
- (a) such consideration in money as would be payable by the supplier if the supplier were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned,
  - (b) where the value cannot be ascertained in accordance with paragraph (a), such consideration in money as would be payable by the supplier if the supplier were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned, or
  - (c) where the value cannot be ascertained in accordance with paragraph (a) or (b), the cost of producing the goods concerned if they were produced at that time.
- (4) For the purposes of sub-paragraph (3), the amount of consideration in money that would be payable by any person if the person were to purchase any goods is taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

*Foreign currency transactions*

- 12 (1) Subject to the following provisions of this paragraph, where—
- (a) goods are acquired from a member State, and
  - (b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,
- then, for the purpose of valuing the relevant transaction, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling of that sum in the currency in question by the person making the acquisition.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange, or
  - (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, applies (instead of the rate for which sub-paragraph (1) provides) in the case of any transaction in pursuance of which goods are acquired by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that transaction.

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- (3) An option for the purposes of sub-paragraph (2) for the use of a particular rate or method of determining a rate—
  - (a) may not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by the person from a member State as are of a particular description or after a particular date, and
  - (b) may not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange, a notice published by the Commissioners under sub-paragraph (2) may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by the person from a member State, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4), the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions and subject to such conditions as they think fit.
- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
- (7) Where goods are acquired from a member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day on which that time falls is the relevant day for the purposes of sub-paragraph (1).

*Meaning of “relevant transaction” and “relevant time”*

- 13 In this Part of this Schedule—
- “relevant transaction”, in relation to any acquisition of goods from a member State, means the transaction in pursuance of which the goods are acquired;
- “the relevant time”, in relation to any such acquisition, means—
- (a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with regulations made under paragraph 4(2)(b), the time of the first removal of the goods (see paragraph 4(5)), and
  - (b) in any other case, the time of acquisition.

### PART 3

#### PAYMENT OF NI ACQUISITION VAT BY TAXABLE PERSONS

*Input tax and output tax*

- 14 (1) NI acquisition VAT is input tax in relation to the taxable person acquiring the goods in question if the goods are used or are to be used for the purpose of any business carried on or to be carried on by the person.

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- (2) NI acquisition VAT is output tax in relation to the taxable person acquiring the goods in question (including VAT which is also to be counted as input tax by virtue of sub-paragraph (1)).
- (3) Subsections (5) to (6A) of section 24 (input tax and output tax) apply to NI acquisition VAT as they apply to VAT on the supply or importation of goods.

*Payment of NI acquisition VAT*

- 15 (1) A taxable person must account for and pay NI acquisition VAT by reference to prescribed accounting periods (see section 25(1)).
- (2) Subsections (2) to (6) of section 25 (payment by reference to accounting period and credit for input tax against output tax) contain provision relevant to the payment of NI acquisition VAT.
- (3) Subsection (7) of that section (power to make order excluding credit for VAT paid) applies to acquisitions in Northern Ireland from a member State as it applies to the supply of goods.
- (4) Section 26(1) has effect as if the reference to “input tax on supplies and importations” included input tax on acquisitions in Northern Ireland from a member State.
- (5) That section and sections 26A to 28 contain further provision relevant to the payment of NI acquisition VAT.

**PART 4**

RELIEFS ETC

*Reduced rate*

- 16 (1) NI acquisition VAT is charged at the rate of 5% (instead of at the rate provided by section 2) if—
  - (a) the acquisition in question is of goods the supply of which would be a supply of a description for the time being specified in Schedule 7A (charge at reduced rate), or
  - (b) the acquisition in question is of a description for the time being specified in regulations made by the Treasury for the purposes of this paragraph.
- (2) Regulations under this paragraph may provide that sub-paragraph (1)(a) does not apply to a description of a supply specified in Schedule 7A that is specified in those regulations.
- (3) The power to specify a description of an acquisition conferred by sub-paragraph (1) (b) may be exercised so as to describe an acquisition of goods by reference to matters unrelated to the characteristics of the goods.

*Zero-rating and exempt acquisitions*

- 17 (1) Section 30(3) (zero-rating) applies to an acquisition of goods in Northern Ireland from a member State as it would apply to an importation of those goods.

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- (2) The Treasury may by regulations provide—
  - (a) that sub-paragraph (1) does not apply to an acquisition of goods specified or described in the regulations;
  - (b) that no NI acquisition VAT is chargeable on an acquisition of goods specified or described in the regulations.
- (3) The Commissioners may by regulations provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—
  - (a) the supply in question involves both the removal of the goods from Northern Ireland and their acquisition in a member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of paragraph 2, and
  - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (4) Section 30(10) applies to a supply of goods that has been zero-rated in pursuance of regulations made under sub-paragraph (3) as it applies to a supply of goods that has been zero-rated in pursuance of regulations made under section 30(8) or (9).
- (5) An acquisition of goods from a member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply (see section 31).

#### *Refunds and reliefs*

- 18 (1) Sections 33 to 33C, 33E and 34 apply to an acquisition of goods from a member State as they apply to a supply of those goods.
- (2) The Treasury may by order make provision for relieving from NI acquisition VAT if, or to the extent that, relief from VAT would be given by an order under section 37 (relief from VAT on importation) if the acquisition in question were an importation.
- (3) An order under sub-paragraph (2) may provide for relief to be subject to such conditions as appear to the Treasury to be necessary or expedient, which may include conditions—
  - (a) prohibiting or restricting the disposal of or dealing with the goods concerned;
  - (b) framed by reference to the conditions to which, by virtue of any order under section 37 in force at the time of the acquisition, relief under such an order would be subject in the case of an importation of the goods concerned.
- (4) Where relief from NI acquisition VAT given by an order under this paragraph was subject to a condition that has been breached or not complied with, the VAT becomes payable at the time of the breach or, as the case may be, at the latest time allowed for compliance.
- (5) Section 38 has effect as if after “by him” there were inserted “ or on the acquisition of goods by that person from member States ”.

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### *F<sup>1508</sup> Refund of NI acquisition VAT to persons constructing certain buildings*

#### **Textual Amendments**

**F1508**Sch. 9ZA para. 18A inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(2)**; [S.I. 2020/1641](#), reg. 2, Sch.

- 18A (1) Where—
- (a) a person carries out works to which this paragraph applies, and
  - (b) the carrying out of the work by the person is lawful and otherwise than in the course or furtherance of any business, and
  - (c) NI acquisition VAT is chargeable on the acquisition from a member State of any goods used by the person for the purposes of the works,
- the Commissioners must, on a claim made in that behalf, refund to that person the amount of NI acquisition VAT so chargeable.
- (2) Where—
- (a) a person carries out works to which this paragraph applies,
  - (b) the carrying out of the work by the person is lawful and otherwise than in the course or furtherance of any business, and
  - (c) VAT is chargeable in accordance with the law of a member State (see paragraph 80) on the supply of any goods used by the person for the purposes of the works,
- the Commissioners must, on a claim made in that behalf, pay to that person an amount equal to that VAT so chargeable.
- (3) The works to which this paragraph applies are—
- (a) the construction of a building in Northern Ireland designed as a dwelling or a number of dwellings;
  - (b) the construction of a building in Northern Ireland for use solely for a relevant residential purpose or relevant charitable purpose;
  - (c) a residential conversion of a building, or a part of a building, in Northern Ireland.
- (4) Subsections (1B) and (1D) of section 35 (refund of VAT to persons constructing certain buildings) apply for the purposes of this paragraph as they apply for the purposes of that section.
- (5) Subsection (2) of that section applies to a refund under subparagraph (1) or (2) as it applies to a refund of VAT under that section.
- (6) Subsections (4) and (4A) of that section apply for the purpose of construing this paragraph.
- (7) Subsection (5) of that section has effect as if in paragraphs (a) and (b), after “this section” there were inserted “ or paragraph 18A of Schedule 9ZA ”.
- (8) The provisions made by or under this Act or any other enactment (whenever passed or made) that apply to a refund under section 35 apply to a refund under subparagraph (2) as if references in those provisions (however framed)—
- (a) to VAT chargeable on the supply of goods were to VAT chargeable under the law of a member State;



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- (b) to refunding VAT to a person were to paying a person in accordance with that sub-paragraph.]

*Refunds in relation to new means of transport supplied to member States*

- 19 (1) Where a person who is not a taxable person makes such a supply of goods consisting in a new means of transport that involves the removal of the goods to a member State from Northern Ireland, the Commissioners must, on a claim made in that behalf, refund to that person, as the case may be—
- (a) the amount of any VAT on the supply of that means of transport to that person, or
  - (b) the amount of any VAT paid by that person on the acquisition of that means of transport from a member State or on its importation into the United Kingdom as a result of its entry into Northern Ireland.
- (2) But the amount of VAT that is to be refunded under this paragraph is not to exceed the amount that would have been payable on the supply involving the removal if it had been a taxable supply by a taxable person and had not been zero-rated.
- (3) A claim for refund of VAT under this paragraph must—
- (a) be made within such time and in such form and manner as may be specified in regulations made by the Commissioners,
  - (b) contain such information as may be specified in those regulations, and
  - (c) be accompanied by such documents as may be specified in those regulations.

## PART 5

### APPLICATION OF ACT TO ACQUISITIONS IN PARTICULAR CASES

*Crown application*

- 20 Subsections (3) and (4) of section 41 (application to the Crown) apply to NI acquisition VAT as they apply to VAT chargeable on the supply of goods.

*Groups of companies*

- 21 (1) Section 43 (groups of companies) applies to an acquisition of goods from a member State as it would apply to an importation of those goods as if the reference in subsection (1)(c) to section 38 were omitted.
- (2) Subsections (2) and (9) of section 44 (supplies to groups) apply to input tax on acquisitions as they apply to input tax on supplies.

*Partnerships*

- 22 (1) Subsection (1) of section 45 (partnerships) applies to persons carrying on in partnership activities, other than carrying on a business, in the course or furtherance of which they acquire goods from a member State as it applies to persons carrying on a business in partnership.
- (2) Subsections (2) and (5) of that section apply to a liability for NI acquisition VAT as they apply to VAT on the supply of goods or services.

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*Unincorporated bodies, personal representative etc*

- 23 (1) In section 46 (business carried on in divisions or by unincorporated bodies, personal representatives etc) any reference to “a business” includes any activity in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from a member State.
- (2) Subsection (3) of that section (no account to be taken in change of members of a club, association or organisation) applies in relation to the determination of whether goods are acquired from a member State by a club, association or organization mentioned in that subsection as it applies in relation to the determination of whether goods or services are supplied by such a club, association or organisation.

*Agents*

- 24 (1) Where goods are acquired from a member State by a person who is not a taxable person (“N”) and a taxable person (“T”) acts in relation to the acquisition and then supplies the goods in T's own name as agent of N, the goods are to be treated for the purposes of this Act as acquired and supplied by T as principal.
- (2) Section 47 (agents) has effect as if—
- (a) the reference in subsection (2) to “subsection (1) above” were to “subsection (1) and paragraph 24(1) of Schedule 9ZA”;
  - (b) the reference in subsection (2A) to “subsection (1) above” were to “subsection (1) or paragraph 24(1) of Schedule 9ZA”.

*VAT representatives*

- 25 Subsection (1)(a) of section 48 (VAT representatives and security) applies to a person who, without being a taxable person, acquires goods in Northern Ireland from one or more member States as it applies to a person who, without being a taxable person, makes taxable supplies.

*Margin schemes*

- 26 Section 50A(5) (margin schemes) has effect as if after “supply,” there were inserted “acquisition”.

**PART 6**

ADMINISTRATION, COLLECTION AND ENFORCEMENT

*Breaches of regulatory provisions*

- 27 (1) Section 69(1) (breaches of regulatory provisions) applies to a failure to comply with a requirement imposed under paragraph 42, 52 or 65(1) or (2)(a) of this Schedule as it applies to a requirement imposed under the provisions mentioned in subsection (1) (a) of that section.
- (2) Section 69(2) has effect as if after “imposed under” there were inserted “ paragraph 64 or 65(2)(b) of Schedule 9ZA or ”.

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### *Offences*

- 28 (1) Any reference in section 72(1) or (8) (offences)—
- (a) to the evasion of VAT includes a reference to the obtaining of a refund under regulations made under paragraph 5(4) or under paragraph [F1509 18A or] 19, and
  - (b) to the amount of VAT, in relation to such a refund, is to be construed as a reference to the amount falsely claimed by way of refund.
- (2) Subsection (5) of section 72 applies to a claim for a refund under regulations made under paragraph 5(4) or under paragraph [F1510 18A or] 19 as it applies to a claim for a refund under the provisions mentioned in paragraph (a) of that subsection.
- (3) Subsection (10) of that section applies where a person has reason to believe that NI acquisition VAT has been or will be evaded as it applies where a person has reason to believe that VAT on the supply of goods or services has been or will be evaded.

#### **Textual Amendments**

**F1509** Words in Sch. 9ZA para. 28(1)(a) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(3)(a)**; S.I. 2020/1641, reg. 2, Sch.

**F1510** Words in Sch. 9ZA para. 28(2) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(3)(b)**; S.I. 2020/1641, reg. 2, Sch.

### *Failure to make returns*

- 29 (1) Subsection (3) of section 73 (failure to make returns etc) applies to an amount which by reason of the cancellation of a person's registration under paragraph 43(2), 43(5) or 53(5) ought not to have been paid as it applies to an amount which ought not to have been paid by reason of the cancellation of a person's registration under any of the provisions mentioned in that subsection.
- (2) Subsection (7) of that section applies to the acquisition of goods from a member State by a taxable person as it applies to the supply of goods to a taxable person.

### *Interest on VAT*

- 30 Paragraph (c) of Section 74(1) applies to a person who was, but should no longer have been, exempted from registration (under Part 8 of this Schedule) under paragraph 44 as it applies to a person who was, but should no longer have been, exempted from registration under any of the provisions mentioned in that paragraph.

### *Assessment in cases of acquisitions of certain goods by non-taxable persons*

- 31 (1) Where a person who has, at a time when the person was not a taxable person, acquired in Northern Ireland from a member State any goods subject to a duty of excise or consisting in a new means of transport and—
- (a) notification of that acquisition has not been given to the Commissioners by the person who is required to give one by regulations under paragraph 73(4) (whether before or after this paragraph comes into force),

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- (b) the Commissioners are not satisfied that the particulars relating to the acquisition in any notification given to them are accurate and complete, or
  - (c) there has been a failure to supply the Commissioners with the information necessary to verify the particulars contained in any such notification,
- the Commissioners may assess the amount of VAT due on the acquisition to the best of their judgment and notify their assessment to that person.
- (2) An assessment under this paragraph must be made within the time limits provided for in section 77 and may not be made after the later of—
- (a) 2 years after the time when a notification of the acquisition of the goods in question is given to the Commissioners by the person who is required to give one by regulations under paragraph 73(4), and
  - (b) one year after evidence of the facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but (subject to section 77) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under this section, another assessment may be made under this paragraph, in addition to any earlier assessment.
- (3) Where an amount has been assessed and notified to any person under this paragraph, it is, subject to the provisions of this Act as to appeals, deemed to be an amount of VAT due from the person and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (4) For the purposes of this paragraph, notification to a personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question is to be treated as notification to that person.

#### *Assessment of amounts due*

- 32 Section 77 (time limits and supplementary assessments) has effect as if—
- (a) in subsection (1), in the words before paragraph (a), after “or 76” there were inserted “ or paragraph 31 of Schedule 9ZA ”;
  - (b) in paragraph (a) of that subsection, after “importation” there were inserted “ or acquisition ”;
  - (c) in subsection (4), after “importation” there were inserted “ , acquisition ”;
  - (d) in subsection (4C) after paragraph (a) there were inserted—
    - “(aza) paragraph 40 or 44(2) of Schedule 9ZA,
    - (azb) paragraph 50 of that Schedule,
    - (azc) regulations under paragraph 73(4) of that Schedule.”;
  - (e) in subsection (6), after “73(6)(b)” there were inserted “ or paragraph 31(2) (b) of Schedule 9ZA ”.

#### *Credit for, or repayment of, overstated or overpaid VAT*

- 33 In section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect as if in subsection (3C) reference to VAT provisions included any provision of any EU instrument relating to VAT, or to any matter connected with VAT, that has effect in Northern Ireland as a result of section 7A of the European Union (Withdrawal) Act 2018 (general implementation of withdrawal agreement).

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## PART 7

### APPEALS AND SUPPLEMENTARY PROVISION

#### *Appeals*

- 34 (1) The following matters are to be treated as if they were included in the list of matters in subsection (1) of section 83 (matters subject to appeal to the tribunal)—
- (a) the VAT chargeable on the acquisition of goods from a member State;
  - (b) any claim for a refund under any regulations made by virtue of paragraph 5(4) of this Schedule;
  - (c) any direction under paragraph 9 of this Schedule;
  - (d) the amount of any refunds under paragraph [<sup>F1511</sup>18A or] 19 of this Schedule;
  - (e) an assessment under paragraph 31 of this Schedule, or the amount of such an assessment;
  - (f) a decision of the Commissioners under paragraph 17 of Schedule 9ZB—
    - (i) as to whether or not a person is to be approved as a Northern Ireland fiscal warehousekeeper or the conditions from time to time subject to which the person is so approved,
    - (ii) for the withdrawal of any such approval, or
    - (iii) for the withdrawal of Northern Ireland fiscal warehouse status from any premises.
- (2) Section 84 (further provisions relating to appeals) has effect as if in subsection (4) (c), after “supply” there were inserted “, acquisition”.

#### **Textual Amendments**

**F1511** Words in Sch. 9ZA para. 34(1)(d) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(4)**; S.I. 2020/1641, reg. 2, Sch.

#### *Supplies spanning change of rate etc*

- 35 (1) This paragraph applies where there is a change in the rate of VAT in force under section 2 or paragraph 16 of this Schedule or in the descriptions of exempt, zero-rated or reduced-rate acquisitions.
- (2) Where—
- (a) any acquisition of goods from a member State which is affected by the change would not have been affected (in whole or in part) if it had been treated as taking place at the time of the first removal of the goods (see paragraph 4(5)), or
  - (b) any acquisition of goods from a member State which is not so affected would have been affected (in whole or in part) if it had been treated as taking place at the time of that removal,
- the rate at which VAT is chargeable on the acquisition, or any question of whether it is an exempt, zero-rated or reduced-rate acquisition, is to be determined as at the time of the first removal of the goods, if the person making the acquisition so elects.

*Status: Point in time view as at 26/07/2021.*

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- (3) References in this paragraph to a zero-rated acquisition is to an acquisition on which no NI acquisition VAT is charged as a result of provision made by or under paragraph 17 (zero-rating).
- (4) Reference in this paragraph to a reduced rate acquisition is to an acquisition on which NI acquisition VAT is charged at the rate in force under paragraph 16(1).

*Failure of resolution under Provisional Collection of Taxes Act 1968*

- 36 (1) Where—
- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 NI acquisition VAT has been paid at a rate specified in the resolution by reference to a value determined under paragraph 8(3) of this Schedule, and
- (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that VAT is repayable in consequence of the restoration of a lower rate,
- the amount repayable is to be the difference between the VAT paid by reference to that value at the rate specified in the resolution and the VAT that would have been payable by reference to that value at the lower rate.
- (2) Where—
- (a) by virtue of such a resolution NI acquisition VAT is chargeable at a rate specified in the resolution by reference to a value determined under paragraph 8(3) of this Schedule, but
- (b) before the VAT is paid it ceases to be chargeable at that rate in consequence of the restoration of a lower rate,
- the VAT chargeable at the lower rate is to be charged by reference to the same value as that by reference to which NI acquisition VAT would have been chargeable at the rate specified in the resolution.
- (3) Section 90(3) (failure of resolution under Provisional Collection of Taxes Act 1968) has effect as if after “or 35” there were inserted “ or paragraph <sup>F1512</sup>18A or] 19 of Schedule 9ZA ”.

**Textual Amendments**

**F1512** Words in Sch. 9ZA para. 36(3) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(5)**; S.I. 2020/1641, reg. 2, Sch.

*Refund of VAT to Government of Northern Ireland*

- 37 (1) Section 99 (refund of VAT to Government of Northern Ireland) applies to—
- (a) VAT charged on the acquisition of goods from a member State by the Government of Northern Ireland as it applies to VAT charged on the supply of goods or services to that Government, and
- (b) any amount attributable to acquisitions of goods from a member State for the purpose of a business carried on by the Government of Northern Ireland as it applies to supplies for that purpose.

*Status: Point in time view as at 26/07/2021.*

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## PART 8

### REGISTRATION IN RESPECT OF ACQUISITIONS FROM MEMBER STATES

#### *Liability to be registered*

- 38 (1) A person who—
- (a) is not registered under this Act, and
  - (b) is not liable to be registered under Schedule 1 or 1A or Part 9 of this Schedule,
- becomes liable to be registered under this Part of this Schedule at the end of any month if, in the period beginning with 1 January of the year in which that month falls, that person had made relevant acquisitions whose value exceeds £85,000.
- (2) A person who is not registered or liable to be registered as mentioned in subparagraph (1)(a) and (b) becomes liable to be registered under this Part of this Schedule at any time if there are reasonable grounds for believing that the value of the person's relevant acquisitions in the following 30 days will exceed £85,000.
- (3) A person is treated as having become liable to be registered under this Part of this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 43(2) or 53(5) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A or paragraph 6(2) of Schedule 3A.
- (4) A person does not cease to be liable to be registered under this Part of this Schedule except in accordance with paragraph 39.
- (5) In determining the value of any person's relevant acquisitions for the purposes of this paragraph, so much of the consideration for any acquisition as represents any liability of the supplier, under the law of a member State, for VAT on the transaction in pursuance of which the acquisition is made, is to be disregarded.
- (6) In determining the value of a person's acquisitions for the purposes of subparagraph (1) or (2), acquisitions to which paragraph 19(6) of Schedule 9ZB (last acquisition or supply of goods before removal from Northern Ireland fiscal warehousing) applies are to be disregarded.
- 39 (1) A person who has become liable to be registered under this Part of this Schedule ceases to be so liable if at any time—
- (a) the person's relevant acquisitions in the year ending with 31 December last before that time did not have a value exceeding £85,000, and
  - (b) the Commissioners are satisfied that the value of the person's relevant acquisitions in the year immediately following that year will not exceed £85,000.
- (2) But a person does not cease to be liable to be registered under this Part of this Schedule at any time if there are reasonable grounds for believing that the value of that person's relevant acquisitions in the following 30 days will exceed £85,000.

#### *Notification of liability and registration*

- 40 (1) A person who becomes liable to be registered under this Part of this Schedule must notify the Commissioners of the liability—

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- (a) in the case of a liability under sub-paragraph (1) of paragraph 38, within 30 days of the end of the month when the person becomes so liable, and
  - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person notifies them) with effect from the relevant time or from such earlier time as may be agreed between the Commissioners and the person.
- (3) In this paragraph “the relevant time”—
- (a) in a case falling within sub-paragraph (1)(a), means the end of the month following the month at the end of which the liability arose, and
  - (b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

*Entitlement to be registered etc*

- 41 (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that the person makes relevant acquisitions, the Commissioners must, if the person so requests, register the person with effect from the day on which the request is made or from such earlier date as may be agreed between the Commissioners and the person.
- (2) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that the person intends to make relevant acquisitions from a specified date, and
  - (b) requests to be registered under this Part of this Schedule,
- the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (3) Conditions imposed under sub-paragraph (2) may—
- (a) be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
  - (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (4) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Part of this Schedule.

*Notification of matters affecting continuance of registration*

- 42 (1) Any person registered under this Part of this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
- (2) A person registered under paragraph 41(2) must notify the Commissioners, within 30 days of the first occasion after the person's registration when the person makes a relevant acquisition, that the person has made that acquisition.
- (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—



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- (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
- (b) in the case of a person who (having been registered under paragraph 41(2)) has not been such a person during the period of the person's registration, the person ceases to have any intention of making relevant acquisitions.

#### *Cancellation of registration*

- 43 (1) Where a person registered under this Part of this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
- (2) Where the Commissioners are satisfied that a person registered under this Part of this Schedule has ceased since the person's registration to be registrable under this Part of this Schedule, they may cancel that registration with effect from the day on which the person so ceased or from such later date as may be agreed between the Commissioners and the person.
- (3) Where the Commissioners are satisfied that a person who has been registered under paragraph 41(2) and is not for the time being liable to be registered under this Part of this Schedule—
- (a) has not begun, by the date specified in the person's request to be registered, to make relevant acquisitions, or
  - (b) has contravened any condition of the person's registration,
- the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
- (4) But the Commissioners may not, under sub-paragraph (1), (2) or (3), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) or (3) a requirement or entitlement, to be registered under this Act.
- (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Part of this Schedule, the person—
- (a) was not registrable under this Part of this Schedule, and
  - (b) in the case of a person registered under paragraph 41(2), did not have the intention by reference to which the person was registered,
- the Commissioners may cancel that registration with effect from that day.
- (6) The registration of a person who—
- (a) is registered under paragraph 41, or
  - (b) would not, if the person were not registered, be liable or entitled to be registered under any provision of this Act except that paragraph,
- may not be cancelled with effect from any time before 1 January which is, or next follows, the second anniversary of the date on which the person's registration took effect.

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- (7) But sub-paragraph (6) does not apply to cancellation under sub-paragraph (3) or (5).
- (8) In determining, for the purposes of sub-paragraphs (4) and (6), whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
- (9) For the purposes of this paragraph, a person is registrable under this Part of this Schedule at any time when the person is liable to be registered under this Part of this Schedule or is a person who makes relevant acquisitions.

#### *Exemption from registration*

- 44 (1) Where a person who makes or intends to make relevant acquisitions satisfies the Commissioners that any such acquisition would be an acquisition in pursuance of a transaction which would be zero-rated if it were a taxable supply by a taxable person, the Commissioners may, if the person so requests and the Commissioners think fit, exempt the person from registration under this Part of this Schedule until it appears to the Commissioners that the request should no longer be acted upon or is withdrawn.
- (2) Where a person who is exempted under this paragraph from registration under this Part of this Schedule makes any relevant acquisition in pursuance of any transaction which would, if it were a taxable supply by a taxable person, be chargeable to VAT otherwise than as a zero-rated supply, the person must notify the Commissioners of the change within 30 days of the date the acquisition was made.

#### *Power to vary specified sums by regulations*

- 45 The Treasury may by regulations substitute for any of the sums for the time being specified in this Part of this Schedule such greater sums as the Treasury consider appropriate.

#### *Notifications*

- 46 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

#### *Meaning of relevant supply*

- 47 For the purposes of this Part of this Schedule “relevant acquisition” means an acquisition that—
- (a) is a taxable acquisition (see paragraph 2(2)) of goods other than goods which are subject to a duty of excise or consist in a new means of transport, and
  - (b) is otherwise than in pursuance of a taxable supply and is treated, for the purposes of this Act, as taking place in Northern Ireland.

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## PART 9

### REGISTRATION IN RESPECT OF DISTANCE SALES FROM THE EU TO NORTHERN IRELAND

#### *Liability to be registered*

- 48 (1) A person who—
- (a) is not registered under this Act, and
  - (b) is not liable to be registered under Schedule 1 or 1A,
- becomes liable to be registered under this Part of this Schedule [<sup>F1513</sup>—
- (i) in a case where sub-paragraph (1A) applies, on a day determined in accordance with sub-paragraph (1B), or
  - (ii) in a case where sub-paragraph (1A) does not apply, on any day when the person makes a relevant supply.]
- [ This sub-paragraph applies where —
- <sup>F1514</sup>(1A) (a) the person has a single place of establishment, or (where the person does not have a place of establishment) a single place where the person has a permanent address or where the person usually resides, and
- (b) that place is in a member State or Northern Ireland.
- (1B) The person becomes liable to be registered on any day in a given year if—
- (a) in the period beginning with 1 January of that year and ending with that day, the person makes a relevant supply, and
  - (b) in that period, or in the period beginning with 1 January and ending with 31 December of the year before the year in which that day falls, the person makes European supplies whose value exceeds £8,818.]
- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Part of this Schedule where—
- (a) the person has exercised any option, in accordance with the law of any member State where the person is taxable, for treating relevant supplies made by that person as taking place outside that member State,
  - (b) the supplies to which the option relates involve the removal of goods from that member State and, apart from the exercise of the option, would be treated, in accordance with the law of that member State, as taking place in that member State, and
  - (c) the person makes a relevant supply at a time when the option is in force in relation to that person.
- (3) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) above becomes liable to be registered under this Part of this Schedule if the person makes a supply that—
- (a) is a supply of goods subject to a duty of excise,
  - (b) involves the removal of the goods to Northern Ireland by or under the directions of the person making the supply,
  - (c) is a transaction in pursuance of which the goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
  - (d) is made in the course or furtherance of a business carried on by the supplier, and

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- (e) is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.
- (4) A person is treated as having become liable to be registered under this Part of this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 43(3) or 53(5) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A, or paragraph 6(2) of Schedule 3A.
- (5) A person does not cease to be liable to be registered under this Part of this Schedule except in accordance with paragraph 49.
- <sup>F1515</sup>(6) .....
- <sup>F1516</sup>(7) .....
- [ For the purposes of this paragraph, a supply of goods or services is a “European <sup>F1517</sup>(8) supply” if it is—
- (a) a supply of services listed in Article 58(1) of the VAT Directive to a person who is not a taxable person and who is established, or (where the person does not have a place of establishment) who has a permanent address or who usually resides, in a member State or Northern Ireland and that is not the place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the services is established etc), or
- (b) a supply of goods that would be an “intra-Community distance sale of goods” within the meaning given by Article 14(4) of the VAT Directive if references in that Article to a “Member State” were read as if they included a reference to Northern Ireland (and references to a “third country” and “third territory” were read accordingly as including Great Britain) involving the removal of goods to a member State or Northern Ireland and that is not the place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the goods is established etc).
- (9) For the purposes of sub-paragraph (8)(a), a person is not a taxable person if they are not liable or entitled to register for VAT in accordance with the law of the place where the person to whom the services are supplied is established, has their permanent address or usually resides.
- (10) In sub-paragraph (8), “the VAT Directive” means Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax.]

#### Textual Amendments

**F1513** Words in [Sch. 9ZA para. 48\(1\)](#) substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(2\); S.I. 2021/770, reg. 3](#)

**F1514** [Sch. 9ZA para. 48\(1A\)\(1B\)](#) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(3\); S.I. 2021/770, reg. 3](#)

**F1515** [Sch. 9ZA para. 48\(6\)](#) omitted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by virtue of [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(4\); S.I. 2021/770, reg. 3](#)

**F1516** [Sch. 9ZA para. 48\(7\)](#) omitted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by virtue of [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(4\); S.I. 2021/770, reg. 3](#)

**F1517** [Sch. 9ZA para. 48\(8\)-\(10\)](#) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(5\); S.I. 2021/770, reg. 3](#)

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- 49 (1) A person who has become liable to be registered under this Part of this Schedule <sup>F1518</sup>by virtue of paragraph 48(1)(i) ceases to be so liable if at any time—
- (a) <sup>F1519</sup>European supplies] made by the person in the year ending with 31 December last before that time did not have a value exceeding <sup>F1520</sup>£8,818] and did not include any supply in relation to which the conditions mentioned in paragraph 48(3) were satisfied, and
  - (b) the Commissioners are satisfied that the value of the person's <sup>F1521</sup>European supplies] in the year immediately following that year will not exceed <sup>F1522</sup>£8,818] and that those supplies will not include a supply in relation to which those conditions are satisfied.
- [ A person who has become liable to be registered under this Part of this Schedule by <sup>F1523</sup>(1A) virtue of paragraph 48(1)(ii) ceases to be so liable by virtue of that paragraph if at any time paragraph 48(1A) applies in relation to that person.
- (1B) A person who has become liable to be registered under this Part of this Schedule by virtue of paragraph 48(3) ceases to be so liable by virtue of that paragraph if at any time the Commissioners are satisfied that the person—
- (a) has ceased to make supplies as mentioned in that paragraph, and
  - (b) will not make such supplies within the period of one year beginning with the day on which the Commissioners are notified or otherwise become aware that the person has ceased to make them.]
- (2) But <sup>F1524</sup>—
- (a) the fact that a person ceases to be liable to be registered under this Part of this Schedule by virtue of one provision does not prevent the person being liable to be registered under this Part of this Schedule by virtue of another provision, and
  - (b) a person does not cease to be liable to be registered under this Part of this Schedule at any time when such an option as is mentioned in paragraph 48(2) above is in force in relation to that person.
- [ Sub-paragraphs (8) to (10) of paragraph 48 apply for the purposes of this paragraph <sup>F1525</sup>(3) as they apply for the purposes of that paragraph.]

#### Textual Amendments

- F1518**Words in *Sch. 9ZA para. 49(1)* inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(a); S.I. 2021/770, reg. 3*
- F1519**Words in *Sch. 9ZA para. 49(1)(a)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(b); S.I. 2021/770, reg. 3*
- F1520**Sum in *Sch. 9ZA para. 49(1)(a)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(d); S.I. 2021/770, reg. 3*
- F1521**Words in *Sch. 9ZA para. 49(1)(b)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(c); S.I. 2021/770, reg. 3*
- F1522**Sum in *Sch. 9ZA para. 49(1)(b)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(d); S.I. 2021/770, reg. 3*
- F1523***Sch. 9ZA para. 49(1A)(1B)* inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(3); S.I. 2021/770, reg. 3*
- F1524**Words in *Sch. 9ZA para. 49(2)* inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(4); S.I. 2021/770, reg. 3*

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**F1525** Sch. 9ZA para. 49(3) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(5); S.I. 2021/770, reg. 3

*Notification of liability and registration*

- 50 (1) A person who becomes liable to be registered under this Part of this Schedule must notify the Commissioners of the liability within the period of 30 days after the day on which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person has notified them) with effect from the day on which the liability arose or from such earlier time as may be agreed between the Commissioners and the person.

*Request to be registered*

- 51 (1) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that the person intends—
- (i) to exercise an option such as is mentioned in paragraph 48(2) and, from a specified date, to make relevant supplies to which that option will relate,
- (ii) from a specified date to make relevant supplies to which any such option that the person has exercised will relate, or
- (iii) from a specified date to make supplies in relation to which the conditions mentioned in paragraph 48(3) will be satisfied, and
- (b) requests to be registered under this Part of this Schedule,
- the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (2) Conditions imposed under sub-paragraph (1) may—
- (a) be imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
- (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Part of this Schedule.

*Notification of matters affecting continuance of registration*

- 52 (1) Any person registered under this Part of this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
- (2) A person registered under paragraph 51 by reference to any intention to exercise any option or to make supplies of any description must notify the Commissioners within 30 days of exercising that option or, as the case may be, of the first occasion after registration when the person makes such a supply, that the person has exercised the option or made such a supply.

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- (3) A person who has exercised an option mentioned in paragraph 48(2) which, as a consequence of the option's revocation or otherwise, ceases to have effect in relation to any relevant supplies by the person must notify the Commissioners, within 30 days of the option's ceasing so to have effect, that it has done so.
- (4) For the purposes of this paragraph, a person ceases to be registrable under this Act where—
  - (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
  - (b) in the case of a person who (having been registered under paragraph 51) has not been such a person during the period of the person's registration, the person ceases to have any such intention as is mentioned in sub-paragraph (1) (a) of that paragraph.

#### *Cancellation of registration*

- 53
- (1) Where a person registered under this Part of this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
  - (2) Where the Commissioners are satisfied that a person who has been registered under paragraph 51 and is not for the time being liable to be registered under this Part of this Schedule—
    - (a) has not, by the date specified in the person's request to be registered, begun to make relevant supplies, exercised the option in question or, as the case may be, begun to make supplies in relation to which the conditions mentioned in paragraph 48(3) are satisfied, or
    - (b) has contravened any condition of the person's registration,the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
  - (3) But the Commissioners may not, under sub-paragraph (1) or (2), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) a requirement or entitlement, to be registered under this Act.
  - (4) In determining for the purposes of sub-paragraph (3) whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
  - (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Part of this Schedule, the person—
    - (a) was not liable to be registered under this Part of this Schedule, and
    - (b) in the case of a person registered under paragraph 51, did not have the intention by reference to which the person was registered,

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the Commissioners may cancel that registration with effect from that day.

- (6) The registration of a person who has exercised an option mentioned in paragraph 48(2) may not be cancelled with effect from any time before the 1 January which is, or next follows, the second anniversary of the date on which the person's registration took effect.

*Power to vary specified sums by regulations*

- 54 The Treasury may by regulations substitute for any of the sums for the time being specified in this Part of this Schedule such greater sums as the Treasury consider appropriate.

*Notifications*

- 55 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

*Meaning of relevant supply*

- 56 For the purposes of this Part of this Schedule “relevant supply” means a supply of goods that—
- (a) involves the removal of the goods to Northern Ireland from a place outside the United Kingdom by or under the directions of the person making the supply,
  - (b) does not involve the installation or assembly of the goods at a place in Northern Ireland,
  - (c) is a transaction in pursuance of which goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
  - (d) is made in the course or furtherance of a business carried on by the supplier, and
  - (e) is neither an exempt supply nor a supply of goods which are subject to a duty of excise or consist in a new means of transport and is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.

## PART 10

### CALL-OFF STOCK ARRANGEMENTS

*Where this Part of this Schedule applies*

- 57 (1) This Part of this Schedule applies where—
- (a) goods forming part of the assets of any business are removed —
    - (i) from Northern Ireland for the purpose of being taken to a place in a member State, or
    - (ii) from a member State for the purpose of being taken to a place in Northern Ireland,



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- (b) the goods are removed in the course or furtherance of that business by or under the directions of the person carrying on that business (“the supplier”),
  - (c) the goods are removed with a view to their being supplied in the destination territory, at a later stage and after their arrival there, to another person (“the customer”),
  - (d) at the time of the removal the customer is entitled to take ownership of the goods in accordance with an agreement existing between the customer and the supplier,
  - (e) at the time of the removal the supplier does not have a business establishment or other fixed establishment in the destination territory,
  - (f) at the time of the removal the customer is identified for the purposes of VAT in accordance with the law of the destination territory and both the identity of the customer and the number assigned to the customer for the purposes of VAT by the destination territory are known to the supplier,
  - (g) as soon as reasonably practicable after the removal the supplier records the removal in the register provided for in Article 243(3) of Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax, and
  - (h) the supplier includes the number mentioned in paragraph (f) in the recapitulative statement provided for in Article 262(2) of Council Directive [2006/112/EC](#).
- (2) For the purposes of this Part of this Schedule, where the destination territory is Northern Ireland, a customer is identified for the purposes of VAT in accordance with the law of the destination territory if the customer is registered under this Act and is identified for the purposes of VAT in Northern Ireland.
- (3) In this Part of this Schedule—
- “the destination territory” means—
    - (a) in a case within paragraph (i) of sub-paragraph (1)(a), the member State concerned, and
    - (b) in a case within paragraph (ii) of sub-paragraph (1)(a), Northern Ireland, and
  - “the origin territory” means—
    - (a) in a case within paragraph (i) of sub-paragraph (1)(a), Northern Ireland, and
    - (b) in a case within paragraph (ii) of sub-paragraph (1)(a), the member State concerned.

*Removal of the goods not to be treated as a supply*

- 58 The removal of the goods from the origin territory is not to be treated by reason of paragraph 30 of Schedule 9ZB as a supply of goods by the supplier.

*Goods transferred to the customer within 12 months of arrival*

- 59 (1) The rules in sub-paragraph (2) apply if—
- (a) during the period of 12 months beginning with the day the goods arrive in the destination territory the supplier transfers the whole property in the goods to the customer, and

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- (b) during the period beginning with the day the goods arrive in the destination territory and ending immediately before the time of that transfer no relevant event occurs.

(2) The rules are that—

- (a) a supply of the goods in the relevant territory is deemed to be made by the supplier,
- (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the time of the transfer mentioned in sub-paragraph (1),
- (c) the consideration given by the customer for the transfer mentioned in sub-paragraph (1) is deemed to have been given for the deemed supply, and
- (d) an acquisition of the goods by the customer in pursuance of the deemed supply is deemed to take place in the destination territory.

(3) In sub-paragraph (2) and in paragraphs 60(2) and 61(2) “the relevant territory” means—

- (a) where the origin territory is Northern Ireland, the United Kingdom, or
- (b) where the origin territory is a member State, that member State.

(4) For the meaning of a “relevant event”, see paragraph 63.

*Relevant event occurs within 12 months of arrival*

60 (1) The rules in sub-paragraph (2) apply (subject to paragraph 62) if—

- (a) during the period of 12 months beginning with the day the goods arrive in the destination territory a relevant event occurs, and
- (b) during the period beginning with the day the goods arrive in the destination territory and ending immediately before the time that relevant event occurs the supplier does not transfer the whole property in the goods to the customer.

(2) The rules are that—

- (a) a supply of the goods in the relevant territory (see paragraph 59(3)) is deemed to be made by the supplier,
- (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the time the relevant event occurs, and
- (c) an acquisition of the goods by the supplier in pursuance of the deemed supply is deemed to take place in the destination territory.

(3) For the meaning of a “relevant event”, see paragraph 63.

*Goods not transferred and no relevant event occurs within 12 months of arrival*

61 (1) The rules in sub-paragraph (2) apply (subject to paragraph 62) if during the period of 12 months beginning with the day the goods arrive in the destination territory the supplier does not transfer the whole property in the goods to the customer and no relevant event occurs.

(2) The rules are that—

- (a) a supply of the goods in the relevant territory (see paragraph 59(3)) is deemed to be made by the supplier,

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- (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the beginning of the day following the expiry of the period of 12 months mentioned in sub-paragraph (1), and
  - (c) an acquisition of the goods by the supplier in pursuance of the deemed supply is deemed to take place in the destination territory.
- (3) For the meaning of a “relevant event”, see paragraph 63.

*Exception to paragraphs 60 and 61: goods returned to origin territory*

- 62 The rules in paragraphs 60(2) and 61(2) do not apply if during the period of 12 months beginning with the day the goods arrive in the destination territory—
- (a) the goods are returned to the origin territory by or under the direction of the supplier, and
  - (b) the supplier records the return of the goods in the register provided for in Article 243(3) of Council Directive [2006/112/EC](#).

*Meaning of “relevant event”*

- 63 (1) For the purposes of this Part of this Schedule each of the following events is a relevant event—
- (a) the supplier forms an intention not to supply the goods to the customer (but see sub-paragraph (2)),
  - (b) the supplier forms an intention to supply the goods to the customer otherwise than in the destination territory,
  - (c) the supplier establishes a business establishment or other fixed establishment in the destination territory,
  - (d) the customer ceases to be identified for the purposes of VAT in accordance with the law of the destination territory,
  - (e) the goods are removed from the destination territory by or under the directions of the supplier otherwise than for the purpose of being returned to the origin territory, or
  - (f) the goods are destroyed, lost or stolen.
- (2) But the event mentioned in paragraph (a) of sub-paragraph (1) is not a relevant event for the purposes of this Part of this Schedule if—
- (a) at the time that the event occurs the supplier forms an intention to supply the goods to another person (“the substitute customer”),
  - (b) at that time the substitute customer is identified for the purposes of VAT in accordance with the law of the destination territory,
  - (c) the supplier includes the number assigned to the substitute customer for the purposes of VAT by the destination territory in the recapitulative statement provided for in Article 262(2) of Council Directive [2006/112/EC](#), and
  - (d) as soon as reasonably practicable after forming the intention to supply the goods to the substitute customer the supplier records that intention in the register provided for in Article 243(3) of Council Directive [2006/112/EC](#).
- (3) Where the destination territory is Northern Ireland, the reference in sub-paragraph (2) (c) to the number assigned to the substitute customer for the purposes of VAT is to the number assigned to the substitute customer for the purposes of VAT in the United Kingdom along with an NI VAT identifier.

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- (4) In a case where sub-paragraph (2) applies, references in this Part of this Schedule to the customer are to be then read as references to the substitute customer.
- (5) In a case where the goods are destroyed, lost or stolen but it is not possible to determine the date on which that occurred, the goods are to be treated for the purposes of this Part of this Schedule as having been destroyed, lost or stolen on the date on which they were found to be destroyed or missing.

*Record keeping by the supplier*

- 64 In a case where the origin territory is Northern Ireland, any record made by the supplier in pursuance of paragraph 57(1)(g), 62(b) or 63(2)(d) must be preserved for such period not exceeding 6 years as the Commissioners may specify in writing.

*Record keeping by the customer*

- 65 (1) In a case where the destination territory is Northern Ireland, the customer must as soon as is reasonably practicable make a record of the information relating to the goods that is specified in Article 54A(2) of Council Implementing [Regulation \(EU\) No. 282/2011](#) of 15 March 2011 laying down implementing measures for Directive [2006/112/EC](#) on the common system of value added tax.
- (2) A record made under this paragraph must—
- (a) be made in a register kept by the customer for the purposes of this paragraph, and
  - (b) be preserved for such period not exceeding 6 years as the Commissioners may specify in writing.

## PART 11

### MODIFICATION OF OTHER SCHEDULES

*Registration in respect of taxable supplies: UK establishment (Schedule 1)*

- 66 (1) Paragraph 1 of Schedule 1 (registration in respect of taxable supplies: UK establishment) has effect as if—
- (a) the provisions mentioned in sub-paragraphs (4)(a) and (5) included paragraphs 43(5) and 53(5) of this Schedule (cancellation of registration);
  - (b) in sub-paragraph (7), after “are supplied” there were inserted “ and any taxable supplies which would not be taxable supplies apart from paragraph 29(1) of Schedule 9ZB ”;
  - (c) in sub-paragraph (9)—
    - (i) after “section 18B(4)” there were inserted “ or paragraph 19(5) of Schedule 9ZB ”;
    - (ii) after “supply” there were inserted “ or acquisition ”.
- (2) Paragraph 2 of that Schedule has effect as if in sub-paragraph (7), after paragraph (b) there were inserted—
- “(c) any acquisition of goods from a member State by one of the constituent members in the course of the activities of the taxable person is to be treated as an acquisition by that person;”.

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- (3) Paragraph 4(3) of that Schedule has effect as if after “are supplied” there were inserted “ and any taxable supplies which would not be taxable supplies apart from paragraph 29(1) of Schedule 9ZB ”.

*Registration in respect of taxable supplies: non-UK establishment (Schedule 1A)*

- 67 Paragraph 3 of Schedule 1A (registration in respect of taxable supplies: non-UK establishment) has effect as if the provisions mentioned in paragraphs (a) to (e) of that paragraph included paragraphs 43(5) and 53(5) of this Schedule.

*Registration: disposals of assets where repayment is claimed (Schedule 3A)*

- 68 Paragraph 1 of Schedule 3A (registration in respect of disposals of assets for which a VAT repayment is claimed) has effect as if—
- (a) in sub-paragraph (1), after “or 1A” there were inserted “ or Part 8 or 9 of Schedule 9ZA ”, and
  - (b) the provisions mentioned in sub-paragraph (2) included paragraphs 43(5) and 53(5) of this Schedule.

*Valuation of supplies: special cases (Schedule 6)*

- 69 (1) Paragraph 1A of Schedule 6 (valuation: special cases) has effect as if—
- (a) in sub-paragraph (4), in the definition of “motor dealer”, after “supplies of” there were inserted “, or acquiring in Northern Ireland from a member State ”;
  - (b) in that sub-paragraph, in the definition of “stock in trade”—
    - (i) in paragraph (a) of that definition, after “supplied to” there were inserted “ or acquired in Northern Ireland from a member State by ”;
    - (ii) in paragraph (b) of that definition, after “supply” there were inserted “, acquisition ”;
  - (c) in sub-paragraph (6)(a)—
    - (i) after “supplied” there were inserted “, acquired in Northern Ireland from a member State ”;
    - (ii) after “supply” there were inserted “, acquisition ”.
- (2) In paragraph 6(1) of that Schedule—
- (a) in paragraph (b), after “Schedule 4” there were inserted “ or paragraph 30 of Schedule 9ZB ”;
  - (b) in paragraph (c), for “that Schedule;” there were substituted “ Schedule 4; or ”;
  - (c) after that paragraph there were inserted—
    - “(d) paragraph 60(2)(a) or 61(2)(a) of Schedule 9ZA, ”.

*Zero-rating (Schedule 8)*

- 70 Group 12 in Part 2 of Schedule 8 (zero-rating: drugs etc) has effect as if—
- (a) in Note (1), after “goods are” there were inserted “ acquired from a member State ”;
  - (b) in Note (5N), in paragraph (b), after “made a” there were inserted “ reckonable zero-rated acquisition, or ”;

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- (c) in Note (5O), in paragraph (b), after “zero-rated” there were inserted “ acquisition or ”;
- (d) in Note (5T), after the definition of “in the required form” there were inserted—
  - ““reckonable zero-rated acquisition”, in relation to a motor vehicle, means an acquisition of the vehicle from a member State in a case where NI acquisition VAT is not chargeable as a result of item 2(f) or 2A.”

*Exempt supplies (Schedule 9)*

- 71 Group 14 in Part 2 of Schedule 9 (exemptions: supplies of goods where input tax cannot be recovered) has effect as if—
- (a) in paragraph (a) of item 1, after “supply to” there were inserted “ or acquisition ”;
  - (b) in Note (7)(a), after “supply to” there were inserted “ or acquisition ”;
  - (c) in Note (9)—
    - (i) in the words before paragraph (a), after “supply to” there were inserted “ or acquisition ”;
    - (ii) in paragraph (b), after “supply to” there were inserted “ or acquisition ”;
  - (d) in Note (10)—
    - (i) after “on a supply” there were inserted “ , acquisition ”;
    - (ii) after “that supply”, there were inserted “ , acquisition ”;
  - (e) in Note (15)—
    - (i) after “anything the supply” there were inserted “ , acquisition ”;
    - (ii) after “be a supply” there were inserted “ , acquisition ”.

*Avoidance (Schedules 9A and 11A)*

- 72 (1) Paragraph 1(5) of Schedule 9A (anti-avoidance provisions: groups) has effect as if, in paragraph (a), after “importation” there were inserted “ or acquisition ”.
- (2) Schedule 11A (disclosure of avoidance schemes) has effect as if the reference to VAT “incurred” by a taxable person in paragraph 2A(1)(b) included VAT on the acquisition by the person of any goods from a member State.

*Accounting for VAT and payment of VAT (Schedule 11)*

- 73 (1) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—
- (a) specified in the regulations, or
  - (b) specified by the Commissioners in accordance with the regulations,
- of statements containing such particulars of transactions in which the taxable persons are concerned and to which this sub-paragraph applies, and of the persons concerned in those transactions, as may be so specified.
- (2) Sub-paragraph (1) applies to transactions involving the movement of goods between a member State and Northern Ireland, or between member States.

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- (3) Sections 65 and 66 (inaccuracies in, or and failure to submit, section 55A statements) apply to any statement which is required to be submitted to the Commissioners in accordance with regulations under sub-paragraph (1) as they apply to a section 55A statement.
- (4) Regulations under this paragraph may make provision in relation to cases where—
- (a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in Northern Ireland from a member State by any person,
  - (b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply, and
  - (c) that person is not a taxable person at the time of the acquisition,
- for requiring the person who acquires the goods to give to the Commissioners such notification of the acquisition, and for requiring any VAT on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations or (in the case of the notification requirement) by the Commissioners in accordance with the regulations.
- (5) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (4)—
- (a) to contain such particulars relating to the notified acquisition and any VAT chargeable in relation to it as may be specified in the regulations or by the Commissioners in accordance with the regulations, and
  - (b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.
- (6) Regulations under this paragraph may provide for—
- (a) the time when any invoice described in regulations under paragraph 4(1)(b) of this Schedule or paragraph 28(2)(b) of Schedule 9ZB is to be treated as having been issued;
  - (b) VAT accounted for and paid by reference to the date of issue of such an invoice to be confined to VAT on so much of the value of the supply or acquisition as is shown on the invoice.
- (7) Sub-paragraphs (1) to (4), (5) and (6) are to be treated, for the purposes of this Act, as if they were contained in paragraph 2 of Schedule 11.

*Administration, collection and enforcement (Schedule 11)*

- 74 (1) Paragraph 2 of Schedule 11 has effect as if—
- (a) in sub-paragraph (5A)(b), after “transport” there were inserted “acquired from a member State, or”;
  - (b) in sub-paragraph (5B)(a), after “chargeable on its” there were inserted “acquisition or”;
  - (c) in sub-paragraph (5D) in the definition of “relevant person”—
    - (i) before paragraph (b) there were inserted—
      - “(a) where the means of transport has been acquired in Northern Ireland from a member State, the person who so acquires it,”;

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(ii) after paragraph (b) there were inserted—

“(c) in any other case—

- (i) the owner of the means of transport at the time of its arrival in the United Kingdom, or
- (ii) where it is subject to a lease or hire agreement, the lessee or hirer of the means of transport at that time.”

- (2) Paragraph 2(8) of Schedule 11 applies to NI acquisition VAT in respect of an acquisition by any person from a member State of dutiable goods as it applies to VAT in respect of any supply by a taxable person of dutiable goods.
- (3) Invoices described in regulations under paragraph 4(2)(b) of this Schedule or paragraph 28(2)(b) of Schedule 9ZB are items to which paragraph 3 of Schedule 11 applies (in addition to the items described in paragraph 3(2)(a) and (b) of that Schedule).
- (4) Paragraph 6 of Schedule 11 has effect as if—
  - (a) after sub-paragraph (1) there were inserted—
    - “(1A) Every person who, at a time when the person is not a taxable person, acquires in Northern Ireland from a member State any goods which are subject to a duty of excise or consist in a new means of transport must keep such records with respect to the acquisition (if it is a taxable acquisition and is not in pursuance of a taxable supply) as the Commissioners may by regulations require.”;
  - (a) in sub-paragraph (2), after “sub-paragraph (1)” there were inserted “ or (1A) ”.
- (5) Paragraph 8(1) of Schedule 11 applies—
  - (a) to goods in the possession of a person who acquires goods in Northern Ireland from a member State as it applies to goods in the possession of a person who supplies goods, and
  - (b) to goods in the possession of a Northern Ireland fiscal warehousekeeper as it applies to goods in the possession of a fiscal warehousekeeper.
- (6) Paragraph 14(1) has effect as if in paragraph (c), after “paragraph 5A” there were inserted “ or paragraph 73(1) or (4) of Schedule 9ZA ”.

## PART 12

### MODIFICATION OF OTHER ACTS

#### *Diplomatic privileges etc*

- 75 (1) The following provisions apply to NI acquisition VAT as they apply to value added tax charged in accordance with section 1(1)(c) of this Act—
  - (a) section 2(5A) of the Diplomatic Privileges Act 1964 (application of Vienna Convention);
  - (b) paragraph 10(1A) of the Schedule to the Commonwealth Secretariat Act 1966 (immunities and privileges);



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- (c) section 1(8A) of the Consular Relations Act 1968 (application of Vienna Convention);
  - (d) paragraph 19(c) of Schedule 1 to the International Organisations Act 1968 (privileges and immunities);
  - (e) section 1(5) of the Diplomatic and other Privileges Act 1971 (refund of customs duties on hydrocarbon oil used for diplomatic or Commonwealth Secretariat purposes).
- (2) Section 8 of the Consular Relations Act 1968 applies to VAT charged on the acquisition of oil in Northern Ireland from a member State as it applies to VAT charged on the importation of oil.

*Customs and Excise Duties (General Reliefs) Act 1979*

- 76 Section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (power to provide reliefs for VAT etc) has effect as if, in subsection (4), in the definition of “value added tax” after “goods” there were inserted “ or on the acquisition of goods from a member State ”.

*Vehicle Excise and Registration Act 1994*

- 77 Section 8 of the Vehicle Excise and Registration Act 1994 (vehicles removed into UK) has effect as if, in subsection (2)—
- (a) in paragraph (a), after “United Kingdom” there were inserted “ , or on the acquisition of the vehicle from a member State, ”;
  - (b) in paragraph (c), after “charged on the” there were inserted “ acquisition or ”.

*Finance Act 2008*

- 78 (1) Paragraph 11 of Schedule 36 to the Finance Act 2008 (information and inspection powers) has effect as if—
- (a) in sub-paragraph (1), after paragraph (a) there were inserted—
    - “(b) premises are used in connection with the acquisition of goods from member States under taxable acquisitions and goods to be so acquired or documents relating to such goods are on those premises,”;
  - (b) in sub-paragraph (2), in paragraph (c), after “taxable supplies” there were inserted “ , the acquisition of goods from member States under taxable acquisitions ”.
- (2) Paragraph 34 of that Schedule has effect as if—
- (a) in sub-paragraph (1), after paragraph (a) there were inserted—
    - “(b) the acquisition of goods from a member State,”;
  - (b) in sub-paragraph (4), after “Schedule 4” there were inserted “ and paragraph 3 of Schedule 9ZA ”.
- (3) Paragraph 1 of Schedule 41 to that Act has effect as if in the table there were inserted the following entries—

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“Value added tax

Obligations under paragraphs 40 and 44(2) of Schedule 9ZA to VATA 1994

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Value added tax	(obligations to notify liability to register and notify acquisition affecting exemption from registration).
Value added tax	Obligation under paragraph 50 of Schedule 9ZA to VATA 1994 (obligation to notify liability to register).
Value added tax	Obligation under regulations under paragraph 73(4) of Schedule 9ZA to VATA 1994 (obligation to give notification of acquisition of goods from a member State)."

- (4) For the purposes of paragraph 7 of that Schedule—
- (a) in a case of a failure to comply with an obligation under regulations under paragraph 73(4) of this Schedule, the “potential lost revenue” is the value added tax on the acquisition to which the failure relates (instead of as provided for by paragraph 7(6) of that Schedule), and
  - (b) the “relevant period” in relation to a failure to comply with paragraph 44(2) of this Schedule is the period beginning on the date of the change or alteration concerned and ending on the date on which HMRC received notification of, or otherwise became fully aware of, that change or alteration.
- (5) In a case to which sub-paragraph (6) of paragraph 7 of that Schedule applies (whether as a result of sub-paragraph (3) of this paragraph or otherwise), the amount of the “potential lost revenue” as determined in accordance with that sub-paragraph is—
- (a) if the amount of the tax mentioned in that sub-paragraph includes tax on an acquisition of goods from a member State, to be reduced by the amount of any VAT which HMRC are satisfied has been paid on the supply in pursuance of which the goods were acquired under the law of that member State, and
  - (b) if the amount of that tax includes tax chargeable as a result of paragraph 29 of Schedule 9ZB on a supply, to be reduced by the amount of any VAT which HMRC are satisfied has been paid on that supply under the law of a member State.

*Finance Act 2016*

- 79 Schedule 18 to the Finance Act 2016 (serial tax avoidance) has effect as if—
- (a) in paragraph 5(4), after paragraph (a) there were inserted—
    - “(b) VAT on the acquisition by the person of any goods from a member State.”;
  - (b) the references to VAT “incurred” by a taxable person in paragraphs 6(1)(b) and 36(7)(b) included VAT on the acquisition by the person of any goods from a member State.

*Finance (No. 2) Act 2017*

- 80 Schedule 17 to the Finance (No. 2) Act 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes) has effect as if—
- (a) the reference in paragraph 6(2)(b) to VAT “incurred” by a taxable person included VAT on the acquisition by the person of any goods from a member State;
  - (b) in paragraph 6(5), after paragraph (a) there were inserted—

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“(b) VAT on the acquisition by the person of any goods from a member State,”.

## PART 13

### INTERPRETIVE PROVISIONS

#### *Taxation under the laws of member States etc*

- 81 (1) References in this Act, in relation to a member State, to the law of that member State are to be construed as confined to so much of the law of that member State as for the time being has effect for the purposes of any EU instrument relating to VAT.
- (2) References in this Act to a person being taxable in a member State are references to that person being taxable under so much of the law of that member State as makes provision for purposes corresponding, in relation to that member State, to the purposes of so much of this Act as makes provision as to whether a person is a taxable person.
- (3) The Commissioners may by regulations make provision for the manner in which any of the following are to be or may be proved for any of the purposes of this Act—
- (a) the effect of any provisions of the law of any member State;
  - (b) that provisions of any such law correspond, in relation to any member State, to any provision of this Act;
  - (c) that provisions of any such law have a purpose corresponding, in relation to any member State, to the purpose of any provision of this Act.
- (4) The Commissioners may by regulations provide—
- (a) for a person to be treated for prescribed purposes of this Act as taxable in a member State only where the person has given such notification, and furnished such other information, to the Commissioners as may be prescribed;
  - (b) for the form and manner in which any notification or information is to be given or furnished under the regulations and what the notification or information must contain;
  - (c) for the proportion of any consideration for any transaction which is to be taken for the purposes of this Act as representing a liability, under the law of a member State, for VAT to be conclusively determined by reference to such invoices or in such other manner as may be prescribed.
- (5) In any proceedings (whether civil or criminal), a certificate of the Commissioners—
- (a) that a person was or was not, at any date, taxable in a member State, or
  - (b) that any VAT payable under the law of a member State has or has not been paid,
- is sufficient evidence of that fact until the contrary is proved, and any document purporting to be a certificate under this subsection is deemed to be such a certificate until the contrary is proved.
- <sup>F1526</sup>(6) Without prejudice to the generality of any of the powers of the Commissioners under the relevant information provisions, those powers are, for the purpose of facilitating compliance with any obligation of the United Kingdom under the EU withdrawal agreement, exercisable with respect to matters that are relevant to a charge to VAT

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under the law of a member State, as they are exercisable with respect to matters that are relevant for any of the purposes of this Act.

- (7) The reference in subsection (6) to the relevant information provisions is a reference to the provisions of section 73(7) and Schedule 11 (see also paragraph 73 which contains provision treated as if contained within that Schedule) relating to—
- (a) the keeping of accounts;
  - (b) the making of returns and the submission of other documents to the Commissioners;
  - (c) the production, use and contents of invoices;
  - (d) the keeping and preservation of records;
  - (e) the furnishing of information and the production of documents.]

#### **Textual Amendments**

**F1526**Sch. 9ZA para. 81(6)(7) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, 4; S.I. 2020/1641, reg. 2, Sch.

#### *Territories included in references to member States etc*

- 82 (1) The Commissioners may by regulations provide for the territory of the European Union, or for the member States, to be treated for any of the purposes of this Act as including or excluding such territories as may be prescribed.
- (2) Without prejudice to the generality of the powers conferred by sub-paragraph (1) and section 16, the Commissioners may, for any of the purposes of this Act, by regulations provide for prescribed provisions of any customs and excise legislation to apply in relation to cases where any territory is treated under sub-paragraph (1) as excluded from the territory of the European Union, with such exceptions and adaptations as may be prescribed.
- (3) In sub-paragraph (2) the reference to customs and excise legislation is a reference to any provision (whenever passed, made or adopted) which has effect in relation to, or to any assigned matter connected with, the importation or exportation of goods or movements of goods between Northern Ireland and Great Britain.
- (4) In sub-paragraph (3) “assigned matter” has the same meaning as in the Management Act.

#### *Meaning of “new means of transport”*

- 83 (1) In this Act “means of transport” in the expression “new means of transport” means any of the following if they are intended for the transport of persons or goods—
- (a) any ship exceeding 7.5 metres in length;
  - (b) any aircraft the take-off weight of which exceeds 1550 kilograms;
  - (c) any motorized land vehicle which—
    - (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres, or
    - (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts.

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- (2) For the purposes of this Schedule a means of transport is to be treated as new, in relation to any supply or any acquisition from a member State, at any time unless at that time—
- (a) the period that has elapsed since its first entry into service is—
    - (i) in the case of a ship or aircraft, a period of more than 3 months, and
    - (ii) in the case of a land vehicle, a period of more than 6 months. and
  - (b) it has, since its first entry into service, travelled under its own power—
    - (i) in the case of a ship, for more than 100 hours,
    - (ii) in the case of an aircraft, for more than 40 hours, and
    - (iii) in the case of a land vehicle, for more than 6000 kilometres.
- (3) The Treasury may by order vary this paragraph—
- (a) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified in sub-paragraph (1);
  - (b) by altering, omitting or adding to the provisions of sub-paragraph (2) for determining whether a means of transport is new.
- (4) The Commissioners may by regulations make provision specifying the circumstances in which a means of transport is to be treated for the purposes of this paragraph as having first entered into service.

*VAT charged in a member State*

84 Where the context requires it, references in this Schedule to VAT means value added tax charged in accordance with the law of a member State (instead of in accordance with this Act.)]

<sup>F1507</sup>SCHEDULE 9ZB

Section 40A(2)

GOODS REMOVED TO OR FROM NORTHERN IRELAND AND SUPPLY RULES

<sup>F1507</sup>PART 1

IMPORTATIONS

*Importations*

- 1 (1) The importation of Union goods into the United Kingdom as a result of their entry into Northern Ireland is not an importation for the purposes of value added tax.
- (2) Accordingly, no charge to VAT occurs on the importation of Union goods into the United Kingdom as a result of their entry into Northern Ireland (but see paragraph 1 of Schedule 9ZA, which imposes a charge to VAT on the acquisition of goods in Northern Ireland from a member State).
- (3) VAT on the importation of any other goods imported into the United Kingdom as a result of their entry into Northern Ireland is to be charged and payable as if it were relevant NI import duty (instead of as provided under section 1(4)).

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- (4) Sub-paragraph (3) is to be taken as applying, in relation to any VAT chargeable on the importation of such goods—
- (a) any provision of Union customs legislation that is relevant to the charging of relevant NI import duty, and
  - (b) any provision made by or under Part 1 of TCTA 2018 that is relevant to the charging of that duty.
- (5) Section 15 (meaning of “importation of goods” into the United Kingdom) applies to the importation of such goods as if—
- (a) any reference to import duty were to relevant NI import duty;
  - (b) the references in subsections (2) and (3) to a Customs, storage, transit or inward processing procedure were to a procedure corresponding to such a procedure under Union customs legislation, and
  - (c) the reference in subsection (3)(b) to section 5(1) of, or paragraph 1(5) or 3(4) of Schedule 1 to, that Act included any provision (including any provision of Union customs legislation) corresponding to those provisions that may apply to those goods.
- (6) In section 16 (application of customs enactments)—
- (a) subsection (1) applies to the importation of such goods as if the reference to “other enactments for the time being having effect generally in relation to duties of customs and excise charged by reference to the importation of goods into the United Kingdom” included any provision of Union customs legislation that applies in relation to relevant NI import duty, and
  - (b) subsections (3) and (4) apply to sub-paragraph (4) of this paragraph as they apply to subsection (2) of that section.
- (7) The Commissioners may by regulations—
- (a) supplement or modify any provision made by provision that applies to value added tax made by or under any enactment (including provision made by or under this Act or TCTA 2018) so far as it applies to VAT charged on the importation of goods into the United Kingdom as a result of their entry into Northern Ireland;
  - (b) supplement or modify any provision of Union customs legislation so far as it applies to VAT charged on such an importation.
- (8) In this Schedule—
- “relevant NI import duty” means duty charged under section 30A(3) of TCTA 2018 (importation of goods: Northern Ireland), and in relation to goods of a description specified in regulations under section 30B(1) of that Act, means that duty as it would be charged if that description were not specified;
- “Union customs legislation” means provisions contained in “customs legislation” within the meaning of [Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(2) of that Regulation), so far as they apply by virtue of section 7A of the European Union (Withdrawal) Act 2018);
- “Union goods” has the meaning it has in that Regulation.

[ This paragraph is subject to paragraph 4 of Schedule 9ZC.]

*Status: Point in time view as at 26/07/2021.*

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### Textual Amendments

**F1527**Sch. 9ZB para. 1(9) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by **Taxation (Post-transition Period) Act 2020 (c. 26)**, s. 11(1)(e), **Sch. 3 para. 27(2)** (with **Sch. 2 para. 7(7)-(9)**); S.I. 2020/1642, reg. 9

### *Valuation of imports*

- 2
- (1) For the purposes of this Act, the value of goods imported into the United Kingdom as a result of their entry into Northern Ireland is their value as if determined for the purposes of relevant NI import duty, whether or not the goods are subject to that duty.
  - (2) Accordingly, section 21(1) (value of imported goods) does not apply in relation to such goods.
  - (3) Subsections (2) to (7) of section 21 apply in relation to such goods (and sub-paragraph (1) is subject to those subsections) as if—
    - (a) the reference in subsection (2) to the rules mentioned in subsection (1) of that section were to the rules mentioned in sub-paragraph (1);
    - (b) in subsection (2)(c), after “United Kingdom” there were inserted “ or a member State ”;
    - (c) the reference in subsection (2A) to the temporary admission procedure under Part 1 of TCTA 2018 were to the procedure that corresponds to that procedure under Union customs legislation.

## **F1507** PART 2

### MOVEMENTS BETWEEN NORTHERN IRELAND AND GREAT BRITAIN

#### *Movements between Northern Ireland and Great Britain*

- 3
- (1) A supply of goods that involves the removal of goods from Northern Ireland to Great Britain or vice versa is zero-rated (see section 30(1)) if such other conditions, if any, as may be specified in regulations or imposed by the Commissioners are fulfilled.
  - (2) Where goods are removed from Northern Ireland to Great Britain, VAT is charged on the entry of those goods into Great Britain as if those goods had been imported into the United Kingdom.
  - (3) Accordingly, any provision made by or under any enactment—
    - (a) that is relevant to the charging of VAT on the importation of goods applies in relation to VAT charged as a result of sub-paragraph (2);
    - (b) that applies to an importation of goods for the purpose of value added tax applies to such a removal (and references in any such provision to imported goods are to be read as including goods that have been so removed).
  - (4) Where goods are removed from Great Britain to Northern Ireland, VAT is charged on the entry of those goods into Northern Ireland as if those goods had been imported into the United Kingdom as a result of their entry (from a place outside the United Kingdom) into Northern Ireland.
  - (5) Accordingly, any provision made by or under any enactment—

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- (a) that is relevant to the charging of VAT on the importation of goods applies (as modified by or under Part 1 of this Schedule) in relation to VAT charged as a result of sub-paragraph (4);
  - (b) that applies to an importation of goods for the purposes of VAT applies (as modified by or under that Part) to such a removal (and references in this Act to imported goods are to be read as including goods that have been so removed).
- (6) Sub-paragraphs (3) and (5)—
- (a) do not apply so far as the context otherwise requires, and
  - (b) are subject to the other provisions of this Part of this Schedule.
- (7) The Treasury may by regulations—
- (a) supplement or modify any provision that applies to value added tax made by or under any enactment (including provision made by or under this Act or TCTA 2018) so far as it applies to VAT charged as a result of sub-paragraph (2) or (4);
  - (b) supplement or modify any provision of Union customs legislation so far as it applies to VAT charged as a result of sub-paragraph (4).

*Liability for VAT on movements between Great Britain and Northern Ireland*

- 4 (1) This paragraph applies to a removal of goods from Northern Ireland to Great Britain or vice versa, instead of section 15 (general provision relating to imported goods).
- (2) Goods are treated as imported—
- (a) in the case of goods removed from Northern Ireland to Great Britain, when a liability to pay duty under section 30C of TCTA 2018 (duty on potentially imported goods) in respect of those goods is, or on the relevant assumptions would be, incurred, and
  - (b) in the case of goods removed from Great Britain to Northern Ireland, when a liability to pay duty under section 40A of TCTA 2018 (duty on certain goods removed to Northern Ireland) in respect of those goods is, or on the relevant assumptions would be, incurred.
- (3) Where the removal is made in the course of a taxable supply made by a taxable person, the taxable person is the person who is treated as having imported the goods.
- (4) Otherwise, each person who—
- (a) in the case of goods removed from Northern Ireland to Great Britain, is, or on the relevant assumptions would be, liable to pay duty under section 30C of TCTA 2018 in respect of those goods, or
  - (b) in the case of goods removed from Great Britain to Northern Ireland, is, or on the relevant assumptions would be, liable to pay duty under section 40A of TCTA 2018 in respect of those goods,
- is a person who is treated as having imported the goods.
- (5) For the purposes of this paragraph “the relevant assumptions” are—
- (a) in the case of goods removed from Northern Ireland to Great Britain, an assumption that duty under section 30C of TCTA 2018 is chargeable in respect of those goods,



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- (b) in the case of goods removed from Great Britain to Northern Ireland, an assumption that duty under section 40A of TCTA 2018 is chargeable in respect of those goods,
  - (c) in a case where there is no obligation to present the goods to customs on their arrival in the part of the United Kingdom to which they are removed, an assumption that there is such an obligation,
  - (d) an assumption that a liability to duty at a nil rate is replaced by a liability to duty at a higher rate, and
  - (e) an assumption that no relief from duty is available.
- (6) The Commissioners may by regulations make provision—
- (a) for any other person to be treated as importing the goods (instead of, or as well as, any person treated as importing the goods as a result of sub-paragraph (3) or (4));
  - (b) about (including provision modifying) the application, in relation to such a person, of any provision made by or under any enactment that has effect for the purposes of, or in connection with the enforcement of, any obligation to account for and pay VAT;
  - (c) for requiring any relevant person liable to VAT as a result of provision made by or under this paragraph to give to the Commissioners such notification of the removal of goods in question, and for such VAT to be paid, in such form or manner as may be specified in the regulations or by the Commissioners in accordance with the regulations.
- (7) A person is “relevant” for the purposes of sub-paragraph (6)(c) if the person was not a taxable person at the time they became liable to the VAT in question.
- (8) If two or more persons are treated as having imported goods those persons are jointly and severally liable to any VAT that is payable on the removal that is treated as an importation as a result of paragraph 3.
- (9) The preceding provisions of this paragraph, and any provision made under sub-paragraph (6)(a), are to be ignored in reading any reference to importation or to an importer in anything applied for the purposes of this Act by section 16(1) or (2).
- (10) But sub-paragraph (9) does not apply so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(3).

[ Sub-paragraphs (3) and (4) are subject to paragraph 4A of Schedule 9ZC.]

F1528(11)

#### Textual Amendments

F1528Sch. 9ZB para. 4(11) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\)](#), [Sch. 3 para. 27\(3\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 9](#)

#### *Valuation of goods removed from Northern Ireland to Great Britain*

- 5 (1) This paragraph applies where goods are removed from Northern Ireland to Great Britain and—
- (a) the removal is in the course of a supply, or

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- (b) the last supply of those goods before their removal is zero-rated as a result of that removal.
- (2) Where this paragraph applies—
  - (a) section 21 (value of imported goods) does not apply for the purpose of determining the value of those goods, and
  - (b) the value of those goods is to be treated as—
    - (i) in a case falling within sub-paragraph (1)(a), the value of the supply in accordance with section 19 and Schedule 6 (value of supply of goods), and
    - (ii) in a case falling within sub-paragraph (1)(b), the value of the last supply of those goods before their removal as determined in accordance with that section and that Schedule.

*Relief for qualifying Northern Ireland goods*

- 6 (1) No VAT is to be charged on the removal of qualifying Northern Ireland goods from Northern Ireland to Great Britain as a result of paragraph 3(2) unless the removal is made in the course of a taxable supply made by a taxable person.
- (2) But the relief provided by sub-paragraph (1) does not apply to a removal of qualifying goods from Northern Ireland to Great Britain if—
- (a) [<sup>F1529</sup>the last supply of those goods before their removal is zero-rated as a result of [<sup>F1530</sup>that removal, or]]
  - [<sup>F1531</sup>(b) duty under section 30C of TCTA 2018 is charged on that removal as a result of subsection (2) of that section (duty on goods removed for an avoidance purpose).]
- (3) Any VAT that is chargeable as a result of sub-paragraph [<sup>F1532</sup>(2)(a)] becomes chargeable from the later of—
- (a) the time when the goods were treated as having been imported as a result of the removal, and
  - (b) the time at which that last supply becomes zero-rated.
- (4) In this paragraph “qualifying Northern Ireland goods” has the meaning it has in the European Union (Withdrawal) Act 2018 (see section 8C(6) of that Act).

**Textual Amendments**

**F1529** Words in Sch. 9ZB para. 6(2)(a) in Sch. 9ZB para. 6(2) renumbered as Sch. 9ZB para. 6(2)(a) (31.12.2020) by The Value Added Tax (Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1544), regs. 1, **5(a)**; S.I. 2020/1641, reg. 2, Sch.

**F1530** Words in Sch. 9ZB para. 6(2)(a) substituted (31.12.2020) by The Value Added Tax (Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1544), regs. 1, **5(b)**; S.I. 2020/1641, reg. 2, Sch.

**F1531** Sch. 9ZB para. 6(2)(b) inserted (31.12.2020) by The Value Added Tax (Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1544), regs. 1, **5(c)**; S.I. 2020/1641, reg. 2, Sch.

**F1532** Word in Sch. 9ZB para. 6(3) substituted (31.12.2020) by The Value Added Tax (Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1544), regs. 1, **5(d)**; S.I. 2020/1641, reg. 2, Sch.

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*Zero-rating of supplies made before declaration on removal*

- 7 Item 1 of Group 13 of Schedule 8 (zero-rating)—
- (a) applies to a supply of goods which are removed from Great Britain to Northern Ireland as if the reference to a Customs declaration were to such a declaration made for the purposes of Union customs legislation (rather than under Part 1 of TCTA 2018);
  - (b) does not apply to goods which are removed from Northern Ireland to Great Britain where no Customs declaration under Part 1 of TCTA 2018 is required to be made in respect of the removal of the goods.

**PART 3**

MODIFICATIONS IN RELATION TO EXPORTS

*Movements of goods by charities*

- 8 Subsection (5) of Section 30 (export by charities treated as supply in United Kingdom) has effect as if the reference to the export of goods—
- (a) included the removal of goods from Great Britain to Northern Ireland, and
  - (b) did not include the export of goods from Northern Ireland to a place in the member States.

*Goods exported from Northern Ireland*

- 9 Section 30(6) (zero-rating of exports by supplier) has effect as if reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States.

*Zero-rating regulations*

- 10 Subsection (8) of section 30 (power to zero-rate supplies where goods have been or are to be exported) has effect as if reference to the export of goods—
- (a) included the removal of goods from Northern Ireland to Great Britain, or vice versa, and
  - (b) did not include the export of goods from Northern Ireland to a place in the member States.

*Zero-rating of supply of exported goods let on hire*

- 11 Section 30(9) (zero-rating of supply of exported goods let on hire) has effect as if the reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States.

*Application of section 30(10)*

- 12 (1) Where a supply of goods has been zero-rated under paragraph 3(1), or as a result of regulations under section 30(8), on the basis that the goods have been or are to be removed from Northern Ireland to Great Britain, section 30(10) (forfeiture of goods found in the United Kingdom) applies in relation to that supply as if any reference to the United Kingdom were to Northern Ireland.

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- (2) Where a supply of goods has been zero-rated under paragraph 3(1) [<sup>F1533</sup>or 31A(3)], or as a result of regulations under section 30(8), on the basis that the goods have been or are to be removed from Great Britain to Northern Ireland, section 30(10) applies in relation to that supply as if any reference to the United Kingdom were to Great Britain.

#### Textual Amendments

**F1533** Words in Sch. 9ZB para. 12(2) inserted (31.12.2020) by The Value Added Tax (Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1544), regs. 1, 7; S.I. 2020/1641, reg. 2, Sch.

#### *Relief from VAT on importation of goods*

- 13 (1) Section 37 (relief from VAT on importation of goods) has effect as if any reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States.
- (2) That section has effect in relation to a removal of goods from Northern Ireland to Great Britain (which is treated as an importation as a result of paragraph 3(3)) as if any reference to the export of goods included their removal from Great Britain to Northern Ireland.
- (3) That section has effect in relation to a removal of goods from Great Britain to Northern Ireland (which is treated as an importation as a result of paragraph 3(5)) as if any reference to the export of goods included their removal from Northern Ireland to Great Britain.

#### *Schedule 8: modifications to Group 13 and 15*

- 14 (1) Item 3 of Group 13 of Schedule 8 (zero-rating) has effect as if the reference to goods for export did not include goods for export from Northern Ireland to a place in the member States.
- (2) Group 15 of that Schedule has effect as if—
- (a) any reference to the export of goods did not include the export of goods from Northern Ireland to a place in the member States;
  - (b) any reference to the export of goods, other than the reference in item 3, included the removal of goods from Great Britain to Northern Ireland or vice versa;
  - (c) after item 3 there were inserted—
 

“3A The removal by a charity of goods donated to it—

    - (a) from Great Britain to Northern Ireland;
    - (b) from Northern Ireland to Great Britain.”

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## PART 4

### WAREHOUSES

#### *Modification of sections 18 and 18A*

- 15 (1) Section 18 (place and time of supply) has effect as if—
- (a) every reference to the United Kingdom were to Great Britain, other than the references—
    - (i) in the phrases “taking place outside the United Kingdom” and “taking place in the United Kingdom”, and
    - (ii) in the definition of “warehouse” in subsection (6);
  - (b) in subsection (6)—
    - (i) in the definition of “the duty point”, in paragraph (b), after “import duty” there were inserted “ or duty under section 30C of TCTA 2018 ”,
    - (ii) in the definition of “warehouse”, in paragraph (a), after “import duty” there were inserted “ or duty under section 30C of TCTA 2018 ”.
- (2) Section 18A (fiscal warehousing) has effect as if the reference to “such place in the United Kingdom” in subsection (3) were to “such place in Great Britain”.

#### *Place and time of supply: Northern Ireland warehouses*

- 16 (1) A supply of goods, or an acquisition of goods in Northern Ireland from a member State, is treated as taking place outside the United Kingdom where—
- (a) the goods are subject to a Northern Ireland warehousing regime,
  - (b) they have been removed—
    - (i) from a place outside the member States, other than Northern Ireland, and have entered the territory of the European Union, or
    - (ii) from a place outside the member States and have entered Northern Ireland (which includes goods removed to Northern Ireland from Great Britain),
  - (c) the material time for their supply, or their acquisition in Northern Ireland, is while they are subject to that regime and before the duty point, and
  - (d) those goods are not, or are not mixed with, any dutiable goods which were produced or manufactured in Northern Ireland or acquired from a member State.
- (2) The Commissioners may by regulations provide that sub-paragraph (1) does not apply in circumstances specified or described in the regulations.
- (3) A supply of dutiable goods which were produced or manufactured in Northern Ireland or acquired from a member State, or a supply of a mixture of such goods and other goods, is treated as taking place outside the United Kingdom where the conditions in sub-paragraph (5) are met.
- (4) An acquisition in Northern Ireland from a member State of dutiable goods is treated as taking place outside the United Kingdom where those conditions are met.
- (5) Those conditions are—

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- (a) that the goods are subject to a Northern Ireland warehousing regime,
  - (b) that the material time for the supply mentioned in sub-paragraph (3), or the acquisition mentioned in sub-paragraph (4), is while the goods are subject to that regime and before the duty point, and
  - (c) that the material time for any subsequent supply of those goods is also while the goods are subject to that regime and before the duty point.
- (6) Where—
- (a) the conditions in sub-paragraph (5)(a) and (b) are met in relation to a supply of goods mentioned in sub-paragraph (3) or an acquisition of goods mentioned in sub-paragraph (4),
  - (b) the condition in sub-paragraph (5)(c) is not met in relation to that supply or acquisition, and
  - (c) the supply or acquisition is treated as taking place within the United Kingdom,
- sub-paragraph (7) applies to the supply or acquisition.
- (7) Where this sub-paragraph applies to a supply or acquisition of goods, the supply or acquisition is treated as taking place at the earlier of—
- (a) the time when the goods are removed from the Northern Ireland warehousing regime, and
  - (b) the duty point.
- (8) Where sub-paragraph (7) applies to a supply of goods, any VAT payable on the supply must be paid—
- (a) at the time when the supply is treated as taking place, and
  - (b) by—
    - (i) the person who removed the goods from the Northern Ireland warehousing regime, or
    - (ii) the person who is required to pay any duty or agricultural levy in respect of the goods.
- (9) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT the person is required to pay by virtue of sub-paragraph (8) at a time later than that provided for by that sub-paragraph.
- (10) Regulations under sub-paragraph (9) may in particular make provision for either or both of the following—
- (a) for the taxable person to pay the VAT together with the VAT chargeable on other supplies by the person of goods and services;
  - (b) for the taxable person to pay the VAT together with any duty of excise deferment of which has been granted to the person under section 127A of the Customs and Excise Management Act 1979,
- and the regulations may make different provision for different descriptions of taxable person and for different descriptions of goods.
- (11) In this paragraph—
- “dutiable goods” means any goods which are subject—
    - (a) to a duty of excise, or
    - (b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to

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the European Union, to any EU customs duty or agricultural levy of the European Union;

“the duty point”, in relation to any goods, means—

- (a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect, and
- (b) in the case of goods which are not so subject—
  - (i) the time when the requirement to pay duty charged under section 30A(3) of TCTA 2018 (importation of goods: Northern Ireland) on those goods takes effect,
  - (ii) the time when the requirement to pay duty charged under section 40A of TCTA 2018 (duty on goods potentially for export from Northern Ireland) on those goods takes effect, or
  - (iii) the time when any Community customs debt in respect of duty on the entry of the goods into the territory of the European Union would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;

“Northern Ireland warehouse” means any warehouse where goods may be stored in the United Kingdom or a member State without payment of any one or more of the following—

- (a) duty charged under section 30A(3) of TCTA 2018 (importation of goods: Northern Ireland) or under section 40A of TCTA 2018 (duty on goods potentially for export from Northern Ireland);
- (b) EU customs duty;
- (c) any agricultural levy of the European Union;
- (d) VAT on the importation of the goods into any member State;
- (e) VAT on the importation of goods into the United Kingdom as a result of their entry into Northern Ireland;
- (f) any duty of excise or any duty which is equivalent in a member State to a duty of excise.

- (12) References in this paragraph to goods being subject to a Northern Ireland warehousing regime are to goods being kept in a Northern Ireland warehouse or being transported between Northern Ireland warehouses (whether in the same country or different countries) without the payment in a country of any duty, levy or VAT; and references to the removal of goods from a warehousing regime are to be construed accordingly.

#### *Northern Ireland fiscal warehouses*

- 17 (1) The Commissioners may, if it appears to them proper, upon application approve any registered person as a Northern Ireland fiscal warehousekeeper, and such approval is subject to such conditions as the Commissioners impose.
- (2) Subject to those conditions and to regulations made under paragraph 25(6), such a person is entitled to keep a Northern Ireland fiscal warehouse.
- (3) “Northern Ireland fiscal warehouse” means a place in Northern Ireland in the occupation or under the control of a Northern Ireland fiscal warehousekeeper that the warehousekeeper has notified to the Commissioners as a Northern Ireland fiscal warehouse.

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- (4) Retail premises may not be notified as a Northern Ireland fiscal warehouse.
- (5) A place notified under sub-paragraph (3) is a Northern Ireland fiscal warehouse from the later of—
  - (a) the date the Commissioners received the notification, and
  - (b) the date specified in the notice from which the notification is to have effect.
- (6) A place ceases to be a Northern Ireland fiscal warehouse—
  - (a) if that place ceases to be in the occupation or under the control of the Northern Ireland fiscal warehousekeeper, or
  - (b) if the Northern Ireland fiscal warehousekeeper notifies the Commissioners that the place is to cease to be a Northern Ireland fiscal warehouse.
- (7) The Commissioners may in considering an application by a person to be a Northern Ireland fiscal warehousekeeper take into account any matter which they consider relevant, and may without prejudice to the generality of that provision take into account all or any one or more of the following—
  - (a) the person's record of compliance and ability to comply with the provisions made by or under this Act;
  - (b) the person's record of compliance and ability to comply with the provisions made by or under the customs and excise Acts (as defined in the Management Act);
  - (c) the person's record of compliance and ability to comply with Union customs legislation;
  - (d) the person's record of compliance and ability to comply with the requirements of member States relating to VAT and duties equivalent to duties of excise;
  - (e) if the applicant is a company, the records of compliance and ability to comply with the matters set out in paragraphs (a) to (d) of its directors, persons connected with its directors, its managing officers, any shadow directors or any of those persons, and, if it is a close company, the records of compliance and ability to comply with the matters set out in those paragraphs of the beneficial owners of the shares of the company or any of them;
  - (f) if the applicant is an individual, the records of compliance and ability to comply with the matters set out in those paragraphs of any company of which the applicant is or has been a director, managing officer or shadow director or, in the case of a close company, a shareholder or the beneficial owner of shares.
- (8) For the purposes of paragraphs (e) and (f) of sub-paragraph (7)—
  - (a) a person is “connected” with a director if that person is the director's spouse or civil partner, or is a relative, or the spouse or civil partner of a relative, of the director or of the director's spouse or civil partner;
  - (b) “managing officer” in relation to a body corporate, means any manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity or as a director;
  - (c) “shadow director” has the meaning given by section 251 of the Companies Act 2006;
  - (d) “close company” has the meaning it has in the Corporation Tax Acts (see Chapter 2 of Part 10 of the Corporation Tax Act 2010).



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- (9) Subject to sub-paragraph (10), a person approved under sub-paragraph (1) remains a Northern Ireland fiscal warehousekeeper until the person—
  - (a) ceases to be a registered person, or
  - (b) notifies the Commissioners in writing that the person is to cease to be a Northern Ireland fiscal warehousekeeper.
- (10) The Commissioners may if they consider it appropriate from time to time—
  - (a) impose conditions on a Northern Ireland fiscal warehousekeeper in addition to those conditions, if any, imposed under sub-paragraph (1);
  - (b) vary or revoke any conditions previously imposed;
  - (c) withdraw approval of any person as a Northern Ireland fiscal warehousekeeper;
  - (d) withdraw Northern Ireland fiscal warehouse status from any premises.
- (11) Any application by or on behalf of a person to be a Northern Ireland fiscal warehousekeeper must be in writing and in such form as the Commissioners may direct and must be accompanied by such information as the Commissioners require.
- (12) Any approval by the Commissioners under sub-paragraph (1), and any withdrawal of approval or other act by them under sub-paragraph (10), must be notified to the fiscal warehousekeeper in writing and takes effect on such notification being made or on any later date specified for the purpose in the notification.
- (13) Without prejudice to the provisions of section 43 concerning liability for VAT, “registered person”, for the purposes of this paragraph, includes any person who under that section is for the time being treated as a member of a group.

*Conversion of relevant fiscal warehouses etc*

- 18 (1) Sub-paragraph (2) applies to any place in Northern Ireland that was a fiscal warehouse immediately before the coming into force of paragraph 17.
- (2) On the coming into force of that paragraph, a place to which this sub-paragraph applies becomes a Northern Ireland fiscal warehouse (and may cease to be in accordance with that paragraph).
- (3) On the coming into force of that paragraph, any fiscal warehousekeeper in relation to such a place immediately before the coming into force of that paragraph becomes a Northern Ireland warehousekeeper (and may cease to be in accordance with that paragraph).
- (4) But a person does not cease to be a fiscal warehousekeeper in relation to a place in Great Britain as a result of sub-paragraph (3).
- (5) Sub-paragraph (6) applies to a fiscal warehousekeeper who becomes a Northern Ireland fiscal warehousekeeper as a result of sub-paragraph (3).
- (6) Any condition imposed under section 18A(1) or (6) that, immediately before the coming into force of paragraph 17, applied to a fiscal warehousekeeper to whom this sub-paragraph applies, applies to that person as a Northern Ireland fiscal warehousekeeper as if imposed under paragraph 17 (and may be varied or revoked accordingly).

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- (7) In this paragraph “fiscal warehouse” and “fiscal warehousekeeper” have the meaning they have in sections 18A to 18F (see section 18F).

*Northern Ireland fiscal warehouses: relief*

- 19 (1) Sub-paragraphs (5) and (6) apply where—
- (a) there is an acquisition of goods in Northern Ireland from a member State,
  - (b) those goods are eligible goods,
  - (c) either—
    - (i) the acquisition takes place while the goods are subject to a Northern Ireland fiscal warehousing regime, or
    - (ii) after the acquisition but before the supply, if any, of those goods which next occurs, the acquirer causes the goods to be placed in a Northern Ireland fiscal warehousing regime, and
  - (d) the acquirer, not later than the time of the acquisition, prepares and keeps a certificate that the goods are subject to a fiscal warehousing regime, or (as the case may be) that the acquirer will cause paragraph (c)(ii) to be satisfied.
- (2) A certificate prepared for the purposes of sub-paragraph (1)(d) must be kept for such period as the Commissioners may by regulations specify.
- (3) Sub-paragraphs (5) and (6) also apply where—
- (a) there is a supply of goods,
  - (b) those goods are eligible goods,
  - (c) either—
    - (i) that supply takes place while the goods are subject to a Northern Ireland fiscal warehousing regime, or
    - (ii) after that supply but before the supply, if any, of those goods which next occurs, the person to whom the former supply is made causes the goods to be placed in a Northern Ireland fiscal warehousing regime,
  - (d) in a case falling within paragraph (c)(ii), the person to whom the supply is made gives the supplier, not later than the time of the supply, a certificate that the person will cause paragraph (c)(ii) to be satisfied, and
  - (e) the supply is not a retail transaction.
- (4) A certificate under sub-paragraph (1)(d) or (3)(d) must be in such form as may be specified by regulations or by the Commissioners in accordance with regulations.
- (5) An acquisition or supply to which this sub-paragraph applies is treated for the purposes of this Act as taking place outside the United Kingdom if any subsequent supply of those goods is while they are subject to the Northern Ireland fiscal warehousing regime.
- (6) Where an acquisition or supply to which this sub-paragraph applies falls, for the purposes of this Act, to be treated as taking place in the United Kingdom that acquisition or supply is treated for the purposes of this Act as taking place when the goods are removed from the Northern Ireland fiscal warehousing regime.
- (7) Where—
- (a) sub-paragraph (6) applies to an acquisition or a supply,
  - (b) the acquisition or supply is taxable and not zero-rated, and

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- (c) the acquirer or supplier is not a taxable person but would be were it not for paragraph 1(9) of Schedule 1 and paragraphs 38(6) and 48(7) of Schedule 9ZA, or any of those provisions,
- VAT is chargeable on that acquisition or supply notwithstanding that the acquirer or the supplier is not a taxable person.
- (8) For the purposes of this paragraph, apart from sub-paragraph (6), an acquisition or supply is treated as taking place at the material time for the acquisition or supply.
- (9) In this paragraph “eligible goods” has the meaning it has in section 18B, but as if in section 18B(6)(b)—
- (a) in sub-paragraph (i)—
- (i) after “import duty” there were inserted “ , and any duty under section 30A(3) of TCTA 2018, ”;
- (ii) after “those Acts” there were inserted “ or Union customs legislation ”;
- (b) in sub-paragraph (ii), after “section 1(1)(c)” there were inserted “ (including any VAT chargeable on the movement of goods from Great Britain to Northern Ireland as a result of paragraph 3(4)) ”.
- (10) The Commissioners may by regulations provide that goods of a description specified in regulations are, for the purposes of this paragraph, to be treated—
- (a) where such goods are not of a description falling within Schedule 5A (goods eligible to be fiscally warehoused), as if they were;
- (b) where such goods are of a description falling within that Schedule, as if they were not.
- (11) The Commissioners may by regulations provide for the zero-rating of supplies of goods, or of such goods as may be specified in regulations, in cases where—
- (a) the Commissioners are satisfied that the supply in question involves both—
- (i) the removal of the goods from a Northern Ireland fiscal warehousing regime, and
- (ii) their being placed in a warehousing regime in a member State, or in such member State or States as may be prescribed, where that regime is established by provisions of the law of that member State corresponding, in relation to that member State, to the provisions of this paragraph and paragraph 17, and
- (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (12) Section 30(10) (zero-rating) applies in relation to regulations made under sub-paragraph (11) as it applies to regulations made under section 30(8) or (9).

*Modification of section 18B*

- 20 Section 18B(5) (fiscally warehoused goods: relief) has effect as if after “Schedule 1” there were inserted “ and paragraphs 38(6) and 48(7) of Schedule 9ZA, or any of those provisions ”.

*Northern Ireland warehouses and fiscal warehouses: services*

- 21 (1) Section 18C has effect as if any reference to—

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- (a) “a warehousing or fiscal warehousing regime” were to “a warehousing, Northern Ireland warehousing, fiscal warehousing, or Northern Ireland fiscal warehousing regime”;
  - (b) “a warehouse or a fiscal warehousekeeper” were to “a warehouse, Northern Ireland warehouse, fiscal or Northern Ireland fiscal warehousekeeper”;
  - (c) “a warehousing regime” were to “a warehousing or Northern Ireland warehousing regime”;
  - (d) “a fiscal warehousing regime” were to “a fiscal or Northern Ireland fiscal warehousing regime”.
- (2) Subsection (2) of that section has effect in relation to goods subject to a Northern Ireland warehousing or Northern Ireland fiscal warehousing regime as if the term “material time” had the meaning it has in this Part of this Schedule.
- (3) Subsection (3) of that section has effect in relation to goods subject to a Northern Ireland warehousing or Northern Ireland fiscal warehousing regime as if the term “duty point” had the meaning it has in paragraph 16.
- (4) Subsection (4)(b) of that section has effect in relation to goods subject to a Northern Ireland fiscal warehousing regime as if after “carried out under” there were inserted “ Union customs legislation (within the meaning of Schedule 9ZB) or under ”.

*Removal from warehousing: accountability*

- 22 (1) This paragraph applies to any supply to which paragraph 19(6) applies (supply treated as taking place on removal or duty point) and any acquisition to which paragraph 19(7) applies (acquisition treated as taking place on removal where acquirer not a taxable person).
- (2) Any VAT payable on the supply or acquisition must (subject to any regulations under sub-paragraph (3)) be paid—
- (a) at the time when the supply or acquisition is treated as taking place under the paragraph in question, and
  - (b) by the person by whom the goods are removed or, as the case may be, together with the excise duty, by the person who is required to pay that duty.
- (3) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT the person is required to pay by virtue of sub-paragraph (2) at a time later than that provided by that sub-paragraph.
- (4) Regulations may make different provisions for different descriptions of taxable persons and for different descriptions of goods and services.

*Deficiency in Northern Ireland fiscally warehoused goods*

- 23 (1) Section 18E applies—
- (a) to goods which have been subject to a Northern Ireland fiscal warehousing regime as it applies to goods which have been subject to a fiscal warehousing regime, and
  - (b) to a Northern Ireland fiscal warehousekeeper as it applies to a fiscal warehousekeeper.
- (2) In this paragraph “fiscal warehousekeeper” has the meaning it has in sections 18A to 18F (see section 18F).

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*Incorrect Northern Ireland fiscal warehousing certificates*

- 24 (1) Where—
- (a) a person who makes, or is to make, an acquisition of goods in Northern Ireland from a member State prepares a certificate for the purposes of paragraph 19(1)(d), and
  - (b) the certificate is incorrect,
- the person preparing the certificate is liable to a penalty.
- (2) The amount of the penalty is the amount of VAT actually chargeable on the acquisition.
- (3) A person is not liable to a penalty under sub-paragraph (1) if the person satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for having prepared the certificate in question.
- (4) If a person is convicted of an offence (whether under this Act or otherwise) by reason of preparing an incorrect certificate for the purposes of paragraph 19(1)(d), the person is not liable to a penalty under sub-paragraph (1).
- (5) A penalty under sub-paragraph (1) is to be treated, for the purposes of sections 76 and 83 (assessments and appeals), as if it were a penalty under section 62 (incorrect certificates).
- (6) Section 62 has effect as if in subsection (1)(a)(ii), after “18C(1)(c)” there were inserted “ or paragraph 19(3)(d) of Schedule 9ZB (Northern Ireland fiscal warehouses) ”.

*Supplementary provision*

- 25 (1) In this Part of this Schedule—
- “eligible goods” is to be construed in accordance with paragraph 19(9) and (10);
- “material time”—
- (a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or paragraph 4(2)(b) of Schedule 9ZA, means such time as may be prescribed for the purpose of this paragraph by those regulations,
  - (b) in relation to any other acquisition, means the time of the first removal of the goods (see paragraph 4(5) of that Schedule), and
  - (c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted;
- “Northern Ireland fiscal warehouse” is to be construed in accordance with paragraph 17;
- “Northern Ireland fiscal warehousekeeper” is to be construed in accordance with that paragraph;
- “Northern Ireland warehouse” has the meaning given by paragraph 16(11).
- (2) Any reference in this Part of this Schedule to goods being subject to a Northern Ireland fiscal warehousing regime is, subject to any regulations made under sub-paragraph (6), a reference to eligible goods being kept in a Northern Ireland fiscal

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warehouse or being transferred between Northern Ireland fiscal warehouses in accordance with such regulations; and any reference to the removal of goods from a Northern Ireland fiscal warehousing regime are to be construed accordingly.

- (3) Where as a result of an operation on eligible goods subject to a Northern Ireland fiscal warehousing regime they change their nature but the resulting goods are also eligible goods, the provisions of this Part of this Schedule apply as if the resulting goods were the original goods.
- (4) Where as a result of an operation on eligible goods subject to a Northern Ireland fiscal warehousing regime they cease to be eligible goods, on their ceasing to be so this Part applies as if they had at that time been removed from the regime; and for that purpose the proprietor of the goods is treated as if that person were the person removing them.
- (5) Where—
  - (a) any person ceases to be a Northern Ireland fiscal warehousekeeper, or
  - (b) any premises cease to have Northern Ireland fiscal warehouse status,
 this Part of this Schedule applies as if the goods of which the person is the fiscal warehousekeeper, or the goods in the fiscal warehouse, as the case may be, had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods is to be treated as if the proprietor were the person removing them.
- (6) The Commissioners may make regulations governing the deposit, keeping, securing and treatment of goods in a Northern Ireland fiscal warehouse, and the removal of goods from a Northern Ireland fiscal warehouse.
- (7) Regulations may, without prejudice to the generality of sub-paragraph (6), include provision—
  - (a) in relation to—
    - (i) goods which are, have been or are to be subject to a Northern Ireland fiscal warehousing regime,
    - (ii) other goods which are, have been or are to be kept in Northern Ireland fiscal warehouses,
    - (iii) Northern Ireland fiscal warehouse premises, and
    - (iv) Northern Ireland fiscal warehousekeepers and their businesses,
 as to the keeping, preservation and production of records and the furnishing of returns and information by Northern Ireland fiscal warehousekeepers and any other persons;
  - (b) requiring goods deposited in a fiscal warehouse to be produced to or made available for inspection by an authorised person on the request of that authorised person;
  - (c) prohibiting the carrying out on Northern Ireland fiscally warehoused goods of such operations as the Commissioners may prescribe;
  - (d) regulating the transfer of goods from one Northern Ireland fiscal warehouse to another;
  - (e) concerning goods which, though kept in a Northern Ireland fiscal warehouse, are not eligible goods or are not intended by a relevant person to be goods in respect of which reliefs are to be enjoyed under this Part of this Schedule;
  - (f) prohibiting a Northern Ireland fiscal warehousekeeper from allowing goods to be removed from a Northern Ireland fiscal warehousing regime without

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payment of any VAT payable under paragraph 22 on or by reference to that removal and, if in breach of that prohibition the warehousekeeper allows goods to be so removed, making the warehousekeeper liable for the VAT jointly and severally with the remover,

and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient.

- (8) Regulations may make different provision for different cases, including different provision for different Northern Ireland fiscal warehousekeepers or descriptions of Northern Ireland fiscal warehousekeeper, for Northern Ireland fiscal warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.

#### *Modification of other provisions*

- 26 (1) Paragraph 3 of Schedule 6 (valuation: special cases) has effect in relation to goods whose supply involves their removal to Northern Ireland from a place outside the United Kingdom as if—
- (a) in sub-paragraph (1)(a)(ii), after “EU” there were inserted “ customs duty or ”;
  - (b) in sub-paragraph (1)(b), for “section 18(4)” there were substituted “ paragraph 16(7) of Schedule 9ZB ”;
  - (c) in sub-paragraph (2), for “section 18” there were substituted “ paragraph 16 of Schedule 9ZB ”.
- (2) Paragraph 2(8) of Schedule 11 has effect as if after “section 18” there were inserted “ in relation to goods other than goods in Northern Ireland, or paragraph 16 of Schedule 9ZB in relation to goods in Northern Ireland ”.
- (3) Section 702 of the Income Tax (Earnings and Pensions) Act 2003 (meaning of “readily convertible asset”) has effect as if in subsection (6)(a), in the definition of “warehousing regime”, after “Value Added Tax Act 1994 (c23)” there were inserted “ or a Northern Ireland warehousing or Northern Ireland fiscal warehousing regime (within the meaning of paragraphs 16 to 25 of Schedule 9ZB to that Act) ”.
- (4) Paragraph 11 of Schedule 36 to the Finance Act 2008 (power to inspect premises) has effect as if—
- (a) in sub-paragraph (1)(c), after “warehouse” there were inserted “ or Northern Ireland fiscal warehouse ”;
  - (b) in sub-paragraph (2)(c), after “warehousing” there were inserted “ or Northern Ireland fiscal warehousing ”.

## **PART 5**

### **RULES RELATING TO PARTICULAR SUPPLIES**

#### *Supplies of gas, electricity or heat*

- 27 (1) Paragraph 3(1) (zero-rating of supplies involving removal of goods from Northern Ireland to Great Britain or vice versa) does not apply to a supply of relevant goods.

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) In this paragraph “relevant goods” has the meaning it has in section 9A (reverse charge on gas, electricity, heat or cooling).

*Time of supply involving both a supply and an acquisition*

- 28 (1) Where any supply of goods involves both—
- (a) the removal of the goods from Northern Ireland, and
  - (b) their acquisition in a member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of paragraph 2,
- subsections (2), (4) to (6) and (10) to (12) of section 6 (time of supply) do not apply and the supply is treated for the purposes of this Act as taking place on whichever is the earlier of the days specified in sub-paragraph (2).
- (2) The days mentioned in sub-paragraph (1) are—
- (a) the 15th day of the month following that in which the removal in question takes place, and
  - (b) the day of the issue, in respect of the supply, of a VAT invoice or of an invoice of such other description as the Commissioners may by regulations prescribe.
- (3) Section 6(14) has effect as if after “section 55(4)” there were inserted “ or paragraph 28 of Schedule 9ZB ”.

*Distance selling between EU and Northern Ireland: place of supply*

- 29 (1) Goods whose place of supply is not determined under subsection (2) or (3) of section 7 (place of supply of goods) are treated as supplied in the United Kingdom where—
- (a) the supply involves the removal of the goods to Northern Ireland by or under the directions of the person who supplies them,
  - (b) the supply is a transaction in pursuance of which the goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
  - (c) the supplier—
    - (i) is liable to be registered under Part 9 of Schedule 9ZA, <sup>F1534</sup>...
    - (ii) would be so liable if the supplier were not already registered under this Act or liable to be registered under Schedule 1 or 1A, [<sup>F1535</sup>or] [ is registered under the OSS scheme or a non-UK scheme (within the <sup>F1536</sup>(iii) meaning of Schedule 9ZD), and]
  - (d) the supply is neither a supply of goods consisting in a new means of transport nor anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.
- (2) Goods whose place of supply is not determined under sub-paragraph (1) or subsection (2) or (3) of section 7 and which do not consist in a new means of transport are treated as supplied outside the United Kingdom where—
- (a) the supply involves the removal of the goods from Northern Ireland, by or under the directions of the person who supplies them, to a member State,



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- (b) the person who makes the supply is taxable in a member State, and
  - (c) provisions of the law of that member State corresponding, in relation to that member State, to the provisions made by sub-paragraph (1) make that person liable to VAT on the supply.
- (3) But sub-paragraph (2) does not apply in relation to any supply in a case where the liability mentioned in sub-paragraph (2)(c) depends on the exercise by any person of an option in the United Kingdom corresponding to such an option as is mentioned in paragraph 48(2) [<sup>F1537</sup>of Schedule 9ZA] unless that person has given, and has not withdrawn, a notification to the Commissioners that the person wishes supplies by that person to be treated as taking place outside the United Kingdom where they are supplies in relation to which the other requirements of sub-paragraph (2) are satisfied.
- (4) The Commissioners may by regulations provide that a notification for the purposes of sub-paragraph (3) is not to be given or withdrawn except in such circumstances, and in such form and manner, as may be prescribed.
- (5) For the purposes of this paragraph—
- (a) where goods, in the course of their removal from a place in Northern Ireland to another place in Northern Ireland leave and re-enter Northern Ireland the removal is not to be treated as a removal from or to Northern Ireland, and
  - (b) where goods, in the course of their removal from a place in Northern Ireland to another place in the United Kingdom leave and re-enter the United Kingdom the removal is not to be treated as a removal from Northern Ireland.
- (6) Section 7 has effect as if the references in subsections (5A) to (7) to “the preceding provisions of this section” included sub-paragraphs (1) and (2) of this paragraph.

#### Textual Amendments

**F1534** Word in Sch. 9ZB para. 29(1)(c)(i) omitted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by virtue of Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 4(a)(i); S.I. 2021/770, reg. 3

**F1535** Word in Sch. 9ZB para. 29(1)(c)(ii) substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 4(a)(ii); S.I. 2021/770, reg. 3

**F1536** Sch. 9ZB para. 29(1)(c)(iii) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 4(a)(iii); S.I. 2021/770, reg. 3

**F1537** Words in Sch. 9ZB para. 29(3) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 4(b); S.I. 2021/770, reg. 3

#### *Removal of business assets to be treated as a supply of goods*

- 30 (1) A person carrying on a business makes a supply of goods where—
- (a) the goods form part of the assets of that business,
  - (b) they are removed from Northern Ireland or a member State under the directions of that person, and
  - (c) the removal is in the course or furtherance of that business for the purpose of being taken to a place—
    - (i) in the case of goods removed from Northern Ireland, a member State, or
    - (ii) in the case of goods removed from a member State, to another member State or to Northern Ireland.

*Status: Point in time view as at 26/07/2021.*

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- (2) Sub-paragraph (1) applies to the removal of goods, whether or not that removal of the goods is, or is connected with, a transaction for consideration.
- (3) Sub-paragraph (1) does not apply—
- (a) to a case falling within paragraph 5(1) of Schedule 4 (matters to be treated as supply of goods or services),
  - (b) to the removal of goods from Northern Ireland where that removal is in the course of their removal from one part of Northern Ireland to another part of Northern Ireland,
  - (c) to the removal of goods from a member State where that removal is in the course of their removal from one part of a member State to another part of that member State,
  - (d) to goods which have been removed from a place outside the member States for entry into the territory of the European Union and are removed from a member State before the time when any Community customs debt in respect of any EU customs duty on their entry into that territory would be incurred,
  - (e) to goods which have been removed from a place outside the United Kingdom and the member States for entry into Northern Ireland and are removed from Northern Ireland before any duty under section 30A(3) of TCTA 2018 on their entry into Northern Ireland would be incurred, or
  - (f) to goods which have been removed from Great Britain to Northern Ireland and are removed from Northern Ireland before any duty under section 40A of TCTA 2018 on their entry into Northern Ireland would be incurred.
- (4) Sub-paragraph (1) is subject to paragraph 58 of Schedule 9ZA (call-off stock arrangements).

*Application of section 43 (company groups) to goods in Northern Ireland*

- 31 Subsection (1)(a) of Section 43 (disregard of supplies between members of groups) does not apply to a supply of goods if the goods are in Northern Ireland at the time they are supplied unless the supplier and the recipient each has a business establishment, or some other fixed establishment, in Northern Ireland.

*Partially exempt supplies*

- [<sup>F1538</sup>31A (1) A removal of goods from Great Britain to Northern Ireland to which this sub-paragraph applies is to be treated as a taxable supply of goods made in the course or furtherance of a business carried on by the person who removes the goods.

- (2) Sub-paragraph (1) applies to a removal of goods if—
- (a) the removal is not (ignoring sub-paragraph (1)) made in the course of a taxable supply,
  - (b) before the removal the goods were supplied to, or were imported by, the person who removed them (“P”),
  - (c) P is, at the time of that supply or importation and at the time of the removal, a taxable person,
  - (d) P has incurred VAT on that supply or importation,
  - (e) the removal takes place within 12 months of P becoming liable to that VAT,

*Status: Point in time view as at 26/07/2021.*

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- (f) some, or all, of the VAT incurred on the supply or importation has not been credited as input tax in relation to P because it has, before the removal, been attributed to—
    - (i) both taxable and exempt supplies, or
    - (ii) exempt supplies, and
  - (g) either—
    - (i) P has not used the goods before their removal, or
    - (ii) P meets the condition in sub-paragraph (3).
- (3) That condition is that P uses the goods, after their removal, exclusively for the purpose of making—
- (a) in a case falling within sub-paragraph (2)(f)(i), both taxable and exempt supplies, or
  - (b) in a case falling within sub-paragraph (2)(f)(ii), exempt supplies.
- (4) A supply of goods which is treated as arising under sub-paragraph (1) is zero-rated.
- (5) VAT incurred by P on the removal of the goods from Great Britain to Northern Ireland (see paragraph 3(4)) is not to be treated as attributable (for the purposes of section 26) to the supply treated as arising under sub-paragraph (1).]

#### Textual Amendments

**F1538**Sch. 9ZB para. 31A inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, 6; [S.I. 2020/1641](#), reg. 2, Sch.

## PART 6

### NORTHERN IRELAND AND THE ISLE OF MAN

#### *Application of Part 2 of this Schedule*

- 32 (1) Paragraph 3(1) (zero-rating of supply of goods removed from Great Britain to Northern Ireland and vice versa) applies to goods removed from Northern Ireland to the Isle of Man as they apply to goods removed from Northern Ireland to Great Britain.
- (2) The following provisions apply to goods removed to Northern Ireland from the Isle of Man as they apply to goods removed from Great Britain to Northern Ireland—
- (a) sub-paragraphs (4) and (5) of paragraph 3 (charge on goods removed from Great Britain to Northern Ireland);
  - (b) sub-paragraphs (6) and (7) of that paragraph (so far as they relate to sub-paragraph (4) or (5)).
- (3) Paragraph 4 (liability for VAT on movements between Great Britain and Northern Ireland) applies to goods removed to Northern Ireland from the Isle of Man as they apply to goods removed from Great Britain to Northern Ireland as if the references to a “taxable person” included a person who is, or is required to be, registered under an Act of Tynwald for the purposes of any tax imposed by or under an Act of Tynwald which corresponds to VAT.

*Status: Point in time view as at 26/07/2021.*

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- (4) Paragraph 7 (zero-rating of supplies made before declaration on removal) applies to goods removed to Northern Ireland from the Isle of Man as it applies to goods removed from Great Britain to Northern Ireland.

*Modifications in relation to exports: goods removed to Isle of Man*

- 33 (1) Subsection (8) of section 30 (power to zero-rate supplies where goods have been or are to be exported) has effect as if reference to the export of goods included the removal of goods from Northern Ireland to the Isle of Man.
- (2) Where a supply of goods has been zero-rated as a result of paragraph 3(1) or regulations under section 30(8), on the basis that the goods have been or are to be removed from Northern Ireland to the Isle of Man, section 30(10) applies in relation to that supply as if any reference to the United Kingdom were to Northern Ireland.
- (3) Section 37 (relief from VAT on importation of goods) has effect in relation to a removal of goods to Northern Ireland from the Isle of Man (which is treated as an importation as a result of paragraphs 3(5) and 32(2)) as if any reference to the export of goods included their removal from Northern Ireland to the Isle of Man.
- (4) Group 15 of Schedule 8 (zero-rating) has effect as if—
- (a) any reference to the export of goods, other than the reference in item 3, included the removal of goods from Northern Ireland to the Isle of Man;
  - (b) the modification made by paragraph 14(2)(c) applied to the removal of goods to the Isle of Man from Northern Ireland as it applies to the removal of goods from Northern Ireland to Great Britain.

*Warehouses*

- 34 Part 4 (warehouses) has effect as if any reference to Great Britain included the Isle of Man (see also article 2 of the Value Added Tax (Isle of Man) Order 1982 which provides that this Act has effect as if the Isle of Man were part of the United Kingdom subject to the provisions of that Order).

*Extent*

- 35 Nothing in this Part of this Schedule is to be taken as extending to the Isle of Man.]

[<sup>F1539</sup>SCHEDULE 9ZC

Section 40A(3)

ONLINE SALES BY OVERSEAS PERSONS AND LOW VALUE IMPORTATIONS:  
 MODIFICATIONS RELATING TO THE NORTHERN IRELAND PROTOCOL

**Textual Amendments**

**F1539**Sch. 9ZC inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 3 para. 28** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**

*Status: Point in time view as at 26/07/2021.*

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<sup>F1539</sup>**PART 1**

**MODIFICATION OF THIS ACT**

1 References in the following provisions of this Act to goods being imported do not include goods imported into the United Kingdom as a result of their entry into Northern Ireland or goods treated as having been imported into the United Kingdom as a result of their being removed from Northern Ireland to Great Britain—

- (a) section 5A(3) (the imported consignment condition);
- (b) section 7(5B)(b) (place of supply of goods);
- (c) section 7AA(1)(c) (reverse charge on goods supplied from abroad).

[<sup>F1540</sup>1A Section 5A has effect as if in subsection (1)(c)(ii) after “outside the United Kingdom” there were inserted “ and prior to the supply the goods were located in Great Britain ”.]

**Textual Amendments**

<sup>F1540</sup>Sch. 9ZC para. 1A inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 29\(2\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 9](#)

[<sup>F1541</sup>1B This Act has effect as if after section 5A there were inserted—

**“Supplies of goods in Northern Ireland facilitated by online marketplaces: deemed supply**

- (1) This section applies where—
  - (a) a person (“P”) makes a taxable supply of goods in the course or furtherance of a business to another person (“R”),
  - (b) the supply is facilitated by an online marketplace, and
  - (c) either the IOSS scheme condition or the Union goods condition is met.
- (2) For the purposes of this Act—
  - (a) P is to be treated as having supplied the goods to the operator of the online marketplace, and
  - (b) the operator is to be treated as having supplied the goods to R in the course or furtherance of a business carried on by the operator.
- (3) The IOSS scheme condition is met where—
  - (a) R belongs in Northern Ireland and is not a taxable person,
  - (b) the supply is a qualifying supply of goods within the meaning of Schedule 9ZE, and
  - (c) the operator of the online marketplace is registered under that Schedule.
- (4) But the IOSS scheme condition is not met where—
  - (a) P is established in the United Kingdom, and
  - (b) the supply involves the removal of goods from Great Britain to Northern Ireland.

*Status: Point in time view as at 26/07/2021.*

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- (5) The Union goods condition is met where—
- (a) P is not established in Northern Ireland or a member State,
  - (b) R either—
    - (i) belongs in Northern Ireland and is not a taxable person, or
    - (ii) belongs in a member State and is not liable or entitled to be registered for VAT in accordance with the law of that member State, and
  - (c) the supply is a supply of Union goods that are located in Northern Ireland at the time they are supplied.
- (6) But the Union goods condition is not met where—
- (a) P is established in Great Britain, and
  - (b) R belongs in Northern Ireland.
- (7) In this section, “Union goods” has the same meaning as in Regulation (EU) 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(23) of that Regulation).”]

#### Textual Amendments

**F1541** Sch. 9ZC para. 1B inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), **Sch. 18 para. 8(2)**; S.I. 2021/770, reg. 3

- 2 Section 77F (exception from liability under section 5A) has effect as if—
- (a) in the heading, after “section 5A” there were inserted “ or Part 1 of Schedule 9ZC ”;
  - (b) in subsection (1), after “section 5A” there were inserted “ or Part 1 of Schedule 9ZC ”;
  - (c) in subsection (2), after “(as defined in section 5A” there were inserted “ or Part 1 of Schedule 9ZC, as the case may be ”.

- [  
**F1542** 2A In Part 2 of Schedule 8 (zero-rating: the groups), Group 21 (online marketplaces: deemed supply) has effect as if after Item 1 there were inserted—
- “2 A supply by a person not established in Northern Ireland or a member State that is deemed to be a supply to an operator of an online marketplace by virtue of section 5B (as it has effect in accordance with paragraph 1B of this Schedule).”]

#### Textual Amendments

**F1542** Sch. 9ZC para. 2A inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), **Sch. 18 para. 8(3)**; S.I. 2021/770, reg. 3

- 3 (1) In Schedule 11, paragraph 6 has effect subject to the following modifications.
- [  
**F1543** (1A) 6ZA,]
- (2) Sub-paragraph (4C) has effect as if—
- (a) the “or” at the end of paragraph (a) were omitted;

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- (b) after paragraph (b) there were inserted
  - (c) Part 1 of Schedule 9ZC makes provision about who is treated as having imported those goods.”
- (3) Sub-paragraph (4D) has effect as if—
  - (a) the “or” at the end of paragraph (b) were omitted;
  - (b) after paragraph (c) there were inserted
    - (d) is treated as having imported goods under Part 1 of Schedule 9ZC.”

#### Textual Amendments

**F1543**Sch. 9ZC para. 3(1A) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), **Sch. 18 para. 8(4)**; S.I. 2021/770, reg. 3

- [  
<sup>F1544</sup>3A Schedule 11 has effect as if after paragraph 6 there were inserted—
- “6Z(1) An operator of an online marketplace must preserve and make available records relating to a relevant taxable supply in accordance with the requirements of Article 242a of the VAT Directive and Article 54c of the Implementing Regulation.
- (2) In this paragraph—
- “the Implementing Regulation” has the same meaning as in Schedule 9ZE;
- “relevant taxable supply” means a supply of goods where that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5B (as it has effect in accordance with paragraph 1B of this Schedule);
- “the VAT Directive” has the same meaning as in Schedule 9ZE.”

#### Textual Amendments

**F1544**Sch. 9ZC paras. 3A, 3B inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), **Sch. 18 para. 8(5)**; S.I. 2021/770, reg. 3

- 3B (1) Sub-paragraph (2) applies (instead of section 6) to a supply of goods deemed to have taken place by section 5B(2)(a) or (b) (as it has effect in accordance with paragraph 1B of this Schedule).
- (2) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted within the meaning of Article 41a of the Implementing Regulation.
- (3) In this paragraph, “the Implementing Regulation” has the same meaning as in Schedule 9ZE.]

#### Textual Amendments

**F1544**Sch. 9ZC paras. 3A, 3B inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by Finance Act 2021 (c. 26), s. 95(6)(a), **Sch. 18 para. 8(5)**; S.I. 2021/770, reg. 3

*Status: Point in time view as at 26/07/2021.*

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- 4 (1) Sub-paragraph (2) applies, instead of section 15(4) and (5) (as modified by paragraph 1 of Schedule 9ZB), where—
- (a) goods are imported into the United Kingdom as a result of their entry into Northern Ireland in the course or furtherance of a business by a person (“P”),
  - (b) that importation is in the course of a taxable supply to a person (“R”) who—
    - (i) is not registered under this Act, or
    - (ii) is registered under this Act but who has not provided P or, where the supply is facilitated by an online marketplace, the operator of that marketplace, with R's VAT registration number,
  - (c) the intrinsic value of the consignment of which the goods are part is not more than £135, and
  - (d) the consignment of which the goods are part—
    - (i) does not contain excepted goods, and
    - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.
- (2) The person who is treated as having imported the goods is—
- (a) in a case where the supply is facilitated by an online marketplace, the operator of the online marketplace, or
  - (b) in any other case, P.
- (3) In sub-paragraph (1)(b)(ii), “VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.
- (4) For the purposes of sub-paragraph (1)(d)(i), “excepted goods” means goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods.
- (5) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in sub-paragraph (1)(c).
- [<sup>F1545</sup>4A (1) Sub-paragraph (2) applies, instead of paragraph 4(3) and (4) of Schedule 9ZB, in relation to a removal of goods from Northern Ireland to Great Britain or, as the case may be, vice versa where—
- (a) the removal is in the course of a supply by a person established outside of the United Kingdom (“P”), and
  - (b) the supply is facilitated by an online marketplace.
- (2) The operator of the online marketplace is the person who is treated as having imported the goods.
- (3) But sub-paragraph (2) does not apply where the person to whom the goods are supplied (“R”)—
- (a) is registered under this Act,
  - (b) has provided the operator of the online marketplace with R's VAT registration number, and
  - (c) the operator of the online marketplace has provided P with that number and details of the supply before the end of the relevant period.
- (4) In sub-paragraph (3)—



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“relevant period” means the period of 7 days beginning with the day on which the supply is treated as taking place under section 6 or such longer period as the Commissioners may allow in general or specific directions;

“VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.

- (5) The Commissioners may by regulations specify the details that must be provided for the purposes of sub-paragraph (3)(c).]

**Textual Amendments**

**F1545**Sch. 9ZC para. 4A inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 29\(3\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 9](#)

**<sup>F1546</sup>PART 2**

**MODIFICATION OF THE VALUE ADDED TAX (IMPORTED GOODS) RELIEF ORDER 1984**

**Textual Amendments**

**F1546**[Sch. 9ZC Pt. 2](#) omitted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by virtue of [Finance Act 2021 \(c. 26\)](#), s. 95(6)(a), [Sch. 18 para. 7](#); S.I. 2021/770, [reg. 3](#)

5 .....

**[<sup>F1547</sup>PART 2A**

**MODIFICATION OF THE VALUE ADDED TAX REGULATIONS 1995**

**Textual Amendments**

**F1547**[Sch. 9ZC Pt. 2A](#) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by [Finance Act 2021 \(c. 26\)](#), s. 95(6)(a), [Sch. 18 para. 8\(6\)](#); S.I. 2021/770, [reg. 3](#)

- 5A (1) In the Value Added Tax Regulations 1995 (S.I. 1995/2518), Part 3 (VAT invoices and other invoicing requirements) has effect subject to the following modifications.
- (2) In regulation 13 (obligation to provide a VAT invoice), paragraph (1C) has effect as if—
- (a) in sub-paragraph (a), after “section 5A” there were inserted “ or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act) ”;
  - (b) in sub-paragraph (b), after “section 7(5B) of” there were inserted “ , or paragraph 38 of Schedule 9ZE to, ”.
- (3) In regulation 13A (electronic invoicing), paragraph (5) has effect as if—
- (a) in sub-paragraph (a), after “section 5A” there were inserted “ or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act) ”;

*Status: Point in time view as at 26/07/2021.*

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- (b) in sub-paragraph (b), after “section 7(5B) of” there were inserted “, or paragraph 38 of Schedule 9ZE to, ”.
- (4) Regulation 16B (retailers' and simplified invoices: exceptions), has effect as if—
  - (a) in sub-paragraph (a), after “section 5A” there were inserted “ or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act) ”;
  - (b) in sub-paragraph (b), after “section 7(5B) of” there were inserted “, or paragraph 38 of Schedule 9ZE to, ”.]

### PART 3

#### REGISTRATION

##### *Liability to be registered*

- 6 (1) A person who is treated as having imported goods under Part 1 of this Schedule and—
  - (a) is not registered under this Act, and
  - (b) is not liable to be registered under Schedule 1, 1A or 9ZA to this Act,
 becomes liable to be registered under this Schedule at the point they are so treated.
- (2) A person who is not registered or liable to be registered as mentioned in sub-paragraph (1)(a) and (b) becomes liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the person will be treated as having imported goods under Part 1 of this Schedule in the following 30 days.
- (3) A person is treated as having become liable to be registered under this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 11(2) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A, paragraph 6(2) of Schedule 3A or paragraph 43 or 53 of Schedule 9ZA.
- (4) A person does not cease to be liable to be registered under this Schedule except in accordance with paragraph 7.
- 7 (1) A person who has become liable to be registered under this Schedule ceases to be so liable at any time if the Commissioners are satisfied that the person is no longer a person who is, or will be, treated as having imported goods under Part 1 of this Schedule.
- (2) But a person does not cease to be liable to be registered under this Schedule at any time if there are reasonable grounds for believing that the person will be treated as having imported goods under Part 1 of this Schedule in the following 30 days.

##### *Notification of liability and registration*

- 8 (1) A person who becomes liable to be registered under this Schedule must notify the Commissioners of the liability—
  - (a) in the case of a liability under sub-paragraph (1) of paragraph 6, within 30 days of the person becoming so liable, and
  - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.

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- (2) The Commissioners must register any such person (whether or not the person notifies them) with effect from the relevant time.
- (3) In this paragraph “the relevant time” —
  - (a) in a case falling within sub-paragraph (1)(a), means the beginning of the day on which the liability arose, and
  - (b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

*Entitlement to be registered etc*

- 9 (1) Where a person who is not liable to be registered under this Act and is not already so registered—
  - (a) satisfies the Commissioners that the person intends to make or facilitate a relevant supply from a specified date, and
  - (b) requests to be registered under this Schedule,the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (2) Conditions imposed under sub-paragraph (1) may—
  - (a) be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
  - (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Schedule.

*Notification of matters affecting continuance of registration*

- 10 (1) Any person registered under this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
- (2) A person registered under paragraph 9(1) must notify the Commissioners, within 30 days of the first occasion after the person's registration when the person makes or facilitates a relevant supply, that the person has made or facilitated that supply.
- (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—
  - (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
  - (b) in the case of a person who (having been registered under paragraph 9(1)) has not been such a person during the period of the person's registration, the person ceases to have any intention of making or facilitating relevant supplies.

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### *Cancellation of registration*

- 11 (1) Where a person registered under this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
- (2) Where the Commissioners are satisfied that a person registered under this Schedule has ceased since the person's registration to be registrable under this Schedule, they may cancel that registration with effect from the day on which the person so ceased or from such later date as may be agreed between the Commissioners and the person.
- (3) Where the Commissioners are satisfied that a person who has been registered under paragraph 9(1) and is not for the time being liable to be registered under this Schedule—
- (a) has not begun, by the date specified in the person's request to be registered, to make or facilitate relevant supplies, or
  - (b) has contravened any condition of the person's registration,
- the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
- (4) But the Commissioners may not, under sub-paragraph (1), (2) or (3), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) or (3) a requirement or entitlement, to be registered under this Act.
- (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Schedule, the person—
- (a) was not registrable under this Schedule, and
  - (b) in the case of a person registered under paragraph 9(1), did not have the intention by reference to which the person was registered,
- the Commissioners may cancel that registration with effect from that day.
- (6) In determining, for the purposes of sub-paragraph (4), whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
- (7) For the purposes of this paragraph, a person is registrable under this Schedule at any time when the person is liable to be registered under this Schedule or is a person who makes or facilitates relevant supplies.

### *Notifications*

- 12 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

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### *Meaning of relevant supply*

- 13 For the purposes of this Part of this Schedule a supply is a “relevant supply” if the person making or facilitating it would be treated as having imported goods under Part 1 of this Schedule.

### *Modification of the Finance Act 2008*

- 14 Paragraph 1 of Schedule 41 to the Finance Act 2008 (penalties: failure to notify etc) has effect as if in the table there were inserted the following entry—

“Value added tax	Obligation under paragraph 8 of Schedule 9ZC to VATA 1994 (obligations to notify liability to register and notify matters affecting continuance of registration).”]
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## [<sup>F1548</sup>SCHEDULE 9ZD

Section 40A

### DISTANCE SELLING OF GOODS FROM NORTHERN IRELAND: SPECIAL ACCOUNTING SCHEME

#### **Textual Amendments**

**F1548**Schs. 9ZD-9ZF inserted (10.6.2021 for specified purposes, 1.7.2021 for specified purposes, 1.3.2024 for specified purposes) by [Finance Act 2021 \(c. 26\)](#), s. 95(6)(a), [Sch. 18 para. 6](#); [S.I. 2021/770](#), regs. 3, 4 (with regs. 5-7); [S.I. 2024/130](#), regs. 3, 4

## **PART 1**

### INTRODUCTION

#### *Overview*

- 1 In this Schedule—
- Parts 2 and 3 establish a special accounting scheme (the One Stop Shop scheme, referred to in this Schedule as the “OSS scheme”) which may be used by persons making intra-Community distance sales of goods from Northern Ireland to member States;
  - Part 4 is about persons participating in schemes in member States that correspond to the OSS scheme;
  - Part 5 is about the collection of non-UK VAT in relation to such corresponding schemes;
  - Part 6 is about appeals;
  - Part 7 contains definitions.

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*“Scheme supply”*

- 2 For the purposes of this Schedule, “scheme supply” means a supply of goods that would be an “intra-Community distance sale of goods” within the meaning given by Article 14(4) of the VAT Directive if references in that Article to a “Member State” were read as if they included a reference to Northern Ireland (and references to a “third country” and “third territory” were read accordingly as including Great Britain).

**PART 2**

REGISTRATION

*The register*

- 3 Persons registered under the OSS scheme are to be registered in a single register kept by the Commissioners for the purposes of the scheme.

*Persons who may be registered*

- 4 (1) A person (“P”) may register under the OSS scheme if—
- (a) P makes or intends to make one or more scheme supplies in the course of a business that P carries on,
  - (b) one of the following applies—
    - (i) P's business is established in Northern Ireland,
    - (ii) P's business is not established in Northern Ireland or a member State but P has a fixed establishment in Northern Ireland, or
    - (iii) P's business is not established in Northern Ireland or a member State and P does not have a fixed establishment in Northern Ireland, but P makes or intends to make scheme supplies from Northern Ireland to a member State and does not have a fixed establishment in a member State, and
  - (c) P is not barred from registering by—
    - (i) sub-paragraph (2),
    - (ii) the second or third paragraph of Article 369a(2) of the VAT Directive, or
    - (iii) any provision of the Implementing Regulation.
- (2) P may not be registered under the OSS scheme if they are a participant in a non-UK scheme (see para 38(1)).
- (3) P must register under the OSS scheme if P intends to account for VAT on scheme supplies even if P is otherwise registered under this Act.

*Becoming registered*

- 5 (1) The Commissioners must register a person (“P”) under the OSS scheme if P—
- (a) satisfies them that the requirements for registration are met (see paragraph 4), and
  - (b) makes a request in accordance with this paragraph (a “registration request”).

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- (2) A registration request must state—
- (a) P's name and postal and electronic addresses (including any websites),
  - (b) whether or not P has begun to make scheme supplies and (if so) the date on which P began to do so, and
  - (c) whether or not P has previously been identified under a non-UK scheme and (if so) the date on which P was first identified under the scheme concerned.
- (3) A registration request must—
- (a) contain any further information, and any declaration about its contents, that the Commissioners may by regulations require, and
  - (b) be made by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Date on which registration takes effect*

- 6 Where a person (“P”) is registered under this Schedule, P's registration takes effect on the date determined in accordance with Article 57d of the Implementing Regulation.

*Further provision about registration*

- 7 The Commissioners may, by means of a notice published by them, make further provision about registration under this Schedule.

*Notification of changes etc*

- 8 (1) A person (“P”) registered under the OSS scheme must inform the Commissioners of the date when P first makes scheme supplies (unless P has already given the Commissioners that information under paragraph 5(2)(b)).
- (2) That information, and any information P is required to give under Article 57h of the Implementing Regulation (notification of certain changes), must be communicated by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Cancellation of registration*

- 9 The Commissioners must cancel the registration of a person (“P”) under the OSS scheme if—
- (a) P has ceased to make, or no longer intends to make, scheme supplies and has notified the Commissioners of that fact;
  - (b) the Commissioners otherwise determine that P has ceased to make, or no longer intends to make, such supplies;
  - (c) P has ceased to satisfy any of the other requirements for registration in paragraph 4(1) and has notified the Commissioners of that fact,
  - (d) the Commissioners otherwise determine that P has ceased to satisfy any of those conditions, or
  - (e) the Commissioners determine that P has persistently failed to comply with P's obligations in or under this Schedule or the Implementing Regulation.

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### PART 3

#### LIABILITY, RETURNS, PAYMENT ETC

##### *Liability to pay non-UK VAT to Commissioners*

- 10 (1) This paragraph applies where a person (“P”)—
- (a) makes a scheme supply, and
  - (b) is registered under the OSS scheme when the supply is made.
- (2) P is liable to pay to the Commissioners the gross amount of VAT on the supply.
- (3) The reference in sub-paragraph (2) to the gross amount of VAT on the supply is to the amount of VAT charged on the supply in accordance with the law of the member State in which the supply is treated as made, without any deduction of VAT pursuant to Article 168 of the VAT Directive.

##### *OSS scheme returns*

- 11 (1) A person (“P”) who is or has been registered under the OSS scheme must submit a return (an “OSS scheme return”) to the Commissioners for each reporting period.
- (2) Each quarter for the whole or part of which P is registered under the OSS scheme is a “reporting period” for P.

##### *OSS scheme returns: further requirements*

- 12 (1) An OSS scheme return is to be made out in sterling.
- (2) Any conversion from one currency into another for the purposes of sub-paragraph (1) is to be made using the exchange rates published by the European Central Bank—
- (a) for the last day of the reporting period to which the OSS scheme return relates, or
  - (b) if no such rate is published for that day, for the next day for which such a rate is published.
- (3) An OSS scheme return—
- (a) must be submitted to the Commissioners before the end of the month following the month in which the last day of the reporting period to which it relates falls;
  - (b) must be submitted by such electronic means, and in such form and manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

##### *Payment*

- 13 (1) A person who is required to submit an OSS scheme return must pay, by the deadline for submitting the return, the amounts required in accordance with paragraph 10 in respect of scheme supplies made in the reporting period to which the return relates.
- (2) A payment under this paragraph must be made in such manner as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.



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#### *Availability of records*

- 14 (1) A person (“P”) who is registered under the OSS scheme must make available to the Commissioners, on request, any obligatory records P is keeping of transactions entered into by P while registered under the scheme.
- (2) The records must be made available by electronic means.
- (3) In sub-paragraph (1) “obligatory records” means records kept in accordance with an obligation imposed in accordance with Article 369k of the VAT Directive.

#### *Amounts required to be paid to member States*

- 15 Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to a member State under Article 46 of Council Regulation (EU) No 904/2010.

### **PART 4**

#### PERSONS REGISTERED UNDER NON-UK SPECIAL ACCOUNTING SCHEMES

#### *Meaning of “a non-UK scheme”*

- 16 (1) In this Schedule “a non-UK scheme” means any provision of the law of a member State which implements Section 3 of Chapter 6 of Title XII of the VAT Directive.
- (2) In relation to a non-UK scheme, references to the “administering member State” are to the member State under whose law the scheme is established.

#### *Exemption from requirement to register under this Act*

- 17 (1) A participant in a non-UK scheme is not required to be registered under this Act by virtue of making scheme supplies in respect of which the participant is required to make returns under that other scheme.
- (2) Sub-paragraph (1) overrides any contrary provision in this Act.
- (3) Where a participant in a non-UK scheme who is not registered under this Act (“the unregistered person”) makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—
- (a) whether or not VAT is chargeable under this Act on those supplies,
  - (b) how much VAT is chargeable under this Act on those supplies,
  - (c) the time at which those supplies are treated as taking place, and
  - (d) any other matter that the Commissioners may specify by regulations,
- that the unregistered person is registered under this Act.
- (4) Scheme supplies made by the unregistered person are “relevant supplies” if—
- (a) the value of the supplies must be accounted for in a return required to be made by the unregistered person under a non-UK scheme, and
  - (b) the supplies are treated as made in the United Kingdom.

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### *De-registration*

- 18 (1) Sub-paragraph (2) applies where a person (“P”) who is registered under Schedule 1A or Part 9 of Schedule 9ZA—
- (a) satisfies the Commissioners that P intends to apply for identification under a non-UK scheme, and
  - (b) asks the Commissioners to cancel P's registration under Schedule 1A or Part 9 of Schedule 9ZA (as the case may be).
- (2) The Commissioners may cancel P's registration under Schedule 1A or Part 9 of Schedule 9ZA (as the case may be) with effect from—
- (a) the day on which the request is made, or
  - (b) a later date agreed between P and the Commissioners.

### *Scheme participants who are also registered under this Act*

- 19 (1) A person (“P”) who—
- (a) is a participant in a non-UK scheme, and
  - (b) is also registered, or required to be registered, under this Act,
- is not required to discharge any obligation placed on them as a taxable person, to the extent that the obligation relates to relevant supplies.
- (2) The reference in sub-paragraph (1) to an obligation placed on P as a taxable person is to an obligation—
- (a) to which P is subject under or by virtue of this Act, and
  - (b) to which P would not be subject if P was neither registered nor required to be registered under this Act.
- (3) A supply made by a participant in a non-UK scheme is a “relevant supply” if—
- (a) the value of the supply must be accounted for in a return required to be made by the participant under that scheme, and
  - (b) the supply is treated as made in the United Kingdom.
- (4) The Commissioners may by regulations specify cases in relation to which sub-paragraph (1) is not to apply.
- (5) In section 25(2) (deduction of input tax from output tax by a taxable person) the reference to output tax that is due from the taxable person does not include any VAT that the taxable person is liable under a non-UK scheme to pay to the tax authorities for the administering member State.

### *Value of supplies to connected persons*

- 20 In paragraph 1 of Schedule 6 (valuation: supply to connected person at less than market value) the reference to a supply made by a taxable person is to be read as including a scheme supply that is made by a participant in a non-UK scheme (and is treated as made in the United Kingdom).

### *Refund of VAT on supplies of goods and services supplied to scheme participant*

- 21 The power of the Commissioners to make regulations under section 39 (repayment of VAT to those in business overseas) includes power to make provision for giving effect to the second sentence of Article 369j of the VAT Directive (which provides

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for VAT on certain supplies to participants in special accounting schemes to be refunded in accordance with Directive [2008/9/EC](#)).

## PART 5

### COLLECTION OF NON-UK VAT

#### *Assessments: general modifications of section 73*

- 22 (1) For the purposes of this Schedule, section 73 (failure to make returns etc) is to be read as if—
- (a) the reference in subsection (1) of that section to returns required under this Act included relevant non-UK returns, and
  - (b) references in that section to a prescribed accounting period included a tax period.
- (2) See also the modifications in paragraph 23.
- (3) In this Schedule “relevant non-UK return” means a non-UK return (see paragraph 38(1)) that is required to be made (wholly or partly) in respect of scheme supplies that are treated as made in the United Kingdom.

#### *Assessments in connection with increase in consideration: modifications*

- 23 (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—
- (a) have effect for the purposes of this Schedule, and
  - (b) are in addition to any other modifications of those sections made by this Schedule.
- (2) Section 73 has effect as if, after subsection (3), there were inserted—
- “(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 33 of Schedule 9ZD in respect of an increase in the consideration for a UK supply (as defined in paragraph 33(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.
- (3B) An assessment under subsection (3A)—
- (a) is of VAT due for the tax period mentioned in paragraph 33(1)(a) of Schedule 9ZD;
  - (b) must be made within the time limits provided for in section 77, and must not be made after the end of the period of—
    - (i) 2 years after the end of the tax period referred to in paragraph 33(1)(a) of Schedule 9ZD, or if later,
    - (ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.
- (3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they

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have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment.”

- (3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).
- (4) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

*Assessments: consequential modifications*

- 24      References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 22 and 23—
- (a) section 74 (interest on VAT recovered or recoverable by assessment);
  - (b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);
  - (c) section 77 (assessments: time limits etc).

*Deemed amendments of relevant non-UK returns*

- 25      (1) Where a person who has made a relevant non-UK return makes a claim under paragraph 31(7)(b) (overpayments) in relation to an error in the return, the relevant non-UK return is taken for the purposes of this Act to have been amended by the information in the claim.
- (2) Where a person who has made a relevant non-UK return gives the Commissioners a notice relating to the return under paragraph 33(2)(b) (increase or decrease in consideration), the relevant non- UK return is taken for the purposes of this Act to have been amended by that information.
- (3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant non-UK return notifies the Commissioners (after the expiry of the period during which the non-UK return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant non-UK return is taken for the purposes of this Act to have been amended by that information.

*Interest on VAT: “reckonable date”*

- 26      (1) Sub-paragraph (2) states the “reckonable date” for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—
- (a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 22, or that could have been so assessed, and
  - (b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.
- (2) The “reckonable date” is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).
- (3) Sub-paragraph (4) states the “reckonable date” for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 22, or could have been so assessed.

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- (4) The “reckonable date” is taken to be the latest date by which a non- UK return was required to be made for the tax period to which the amount assessed relates.
- (5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (treated as inserted by paragraph 23(2)), the “reckonable date” for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 33(2).

*Default surcharge: notice of special surcharge period*

- 27
- (1) A person who is required to make a relevant non-UK return for a tax period is regarded for the purposes of this paragraph and paragraph 28 as being in default in respect of that period if either—
    - (a) conditions 1A and 2A are met, or
    - (b) conditions 1B and 2B are met,(but see also paragraph 29).
  - (2) The conditions are as follows—
    - (a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;
    - (b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return;
    - (c) condition 1B is that, by the deadline for submitting the return, those tax authorities have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;
    - (d) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.
  - (3) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a “special surcharge liability notice”) specifying a period—
    - (a) ending on the first anniversary of the last day of that tax period, and
    - (b) beginning on the date of the notice.
  - (4) A period specified under sub-paragraph (3) is a “special surcharge period”.
  - (5) If a special surcharge liability notice is served in respect of a tax period which ends on or before the day on which an existing special surcharge period ends, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

*Further default after service of notice*

- 28
- (1) If a person on whom a special surcharge liability notice has been served—
    - (a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and
    - (b) has outstanding special scheme VAT for that tax period,the person is to be liable to a surcharge of the amount given by sub-paragraph (2).
  - (2) The surcharge is equal to whichever is the greater of—
    - (a) £30, and

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- (b) the specified percentage of the person's outstanding special scheme VAT for the tax period.
- (3) The specified percentage depends on whether the tax period is the first, second or third etc period in respect of which the person is in default and has outstanding special scheme VAT, and is—
- (a) for the first such tax period, 2%;
  - (b) for the second such tax period, 5%;
  - (c) for the third such tax period, 10%;
  - (d) for each such tax period after the third, 15%.
- (4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a non-UK scheme in respect of scheme supplies treated as made in the United Kingdom.
- (5) A person has “outstanding special scheme VAT” for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a non-UK return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as “the person's outstanding special scheme VAT” for the tax period).

*Default surcharge: exceptions for reasonable excuse etc*

- 29 (1) A person who would otherwise have been liable to a surcharge under paragraph 28(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—
- (a) the non-UK return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or the VAT not having been so despatched.
- (2) Where sub-paragraph (1) applies to a person—
- (a) the person is treated as not having been in default in respect of the tax period in question, and
  - (b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.
- (3) A default is “material” to a surcharge if—
- (a) it is the default which gives rise to the surcharge, under paragraph 28(1), or
  - (b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.
- (4) A default is left out of account for the purposes of paragraphs 27(3) and 28(1) if—
- (a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and
  - (b) by reason of that conduct the person concerned is assessed to a penalty under that section.

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- (5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 27(3) and 28(1).
- (6) Section 71(1) (meaning of “reasonable excuse”) applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

*Interest in certain cases of official error*

- 30 (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—
  - (a) a person has accounted under a non-UK scheme for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 31 to pay (or repay) an amount to the person, or
  - (b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a non-UK scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.
- (2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.
- (3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a non-UK scheme.
- (4) In section 78, as it applies as a result of this paragraph, “output tax” has the meaning that expression would have if the reference in section 24(2) to a “taxable person” were to a “person”.

*Overpayments*

- 31 (1) A person may make a claim if the person—
  - (a) has made a non-UK return for a tax period relating wholly or partly to scheme supplies treated as made in the United Kingdom,
  - (b) has accounted to the tax authorities for the administering member State for VAT in respect of those supplies, and
  - (c) in doing so has brought into account as UK VAT due to those authorities an amount (“the overpaid amount”) that was not UK VAT due to them.
- (2) A person may make a claim if the person has, as a participant in a non-UK scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due (“the overpaid amount”), otherwise than in the circumstances mentioned in subparagraph (1)(c).
- (3) A person who is or has been a participant in a non-UK scheme may make a claim if the Commissioners—
  - (a) have assessed the person to VAT for a tax period, and
  - (b) in doing so, have brought into account as VAT an amount (“the amount not due”) that was not VAT due.

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- (4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.
- (5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.
- (6) Where—
  - (a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and
  - (b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,
 the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.
- (7) The reference in sub-paragraph (1) to a claim is to a claim made—
  - (a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the non-UK return mentioned in sub-paragraph (1)(a), or
  - (b) (after the expiry of the period during which the non-UK return may be amended under Article 61) to the Commissioners.
- (8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except to the extent that is required by Article 63 of the Implementing Regulation.

*Overpayments: supplementary*

- 32 (1) In section 80 (credit for, or repayment of, overstated or overpaid VAT), subsections (3) to (3C) (unjust enrichment) and (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited) have effect as if—
- (a) a claim—
    - (i) under paragraph 31(1) were a claim under section 80(1),
    - (ii) under paragraph 31(2) were a claim under section 80(1B), and
    - (iii) under paragraph 31(3) were a claim under section 80(1A);
  - (b) references in that section to a prescribed accounting period included a tax period.
- (2) In section 80(3) to (3C), (4A), (4C) and (6), as modified by sub-paragraph (1), references to the crediting of amounts are to be read as including the payment of amounts.
- (3) The Commissioners are not liable to repay the overpaid amount on a claim made—
- (a) under paragraph 31(2), or
  - (b) as mentioned in paragraph 31(7)(b),
- if the claim is made more than 4 years after the relevant date.
- (4) On a claim made under paragraph 31(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.
- (5) The “relevant date” is—
- (a) in the case of a claim under paragraph 31(1), the end of the tax period mentioned in paragraph 31(1)(a), except in the case of a claim resulting from an incorrect disclosure;



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- (b) in the case of a claim under paragraph 31(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;
- (c) in the case of a claim under paragraph 31(2), the date on which the payment was made;
- (d) in the case of a claim under paragraph 31(3), the end of the quarter in which the assessment was made.

(6) A person makes an “incorrect disclosure” where—

- (a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period (“the disclosed amount”),
- (b) the disclosure is made in a later tax period, and
- (c) some or all of the disclosed amount is not in fact VAT due.

*Increase or decrease in consideration for a supply*

33 (1) This paragraph applies where—

- (a) a person makes a non-UK return for a tax period (“the affected tax period”) relating (wholly or partly) to a UK supply, and
- (b) after the return has been made the amount of the consideration for the UK supply increases or decreases.

(2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—

- (a) amend the non-UK return to take account of the increase or decrease, or
- (b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the non-UK return has expired) notify the Commissioners of the adjustment needed to the figures in the non-UK return because of the increase or decrease.

(3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—

- (a) the amount of VAT that was chargeable on the supply before the increase in consideration, and
- (b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.

(4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.

(5) The Commissioners may by regulations specify—

- (a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;
- (b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).

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- (6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).
- (7) In this paragraph “UK supply” means a scheme supply that is treated as made in the United Kingdom.

#### *Bad debts*

- 34 Where a participant in a non-UK scheme—
- (a) has submitted a non-UK return to the tax authorities for the administering member State, and
  - (b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a scheme supply that is treated as made in the United Kingdom,
- the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

#### *Penalties for errors: disclosure*

- 35 Where a person corrects a non-UK return in a way that constitutes telling the tax authorities for the administering member State about—
- (a) an inaccuracy in the return,
  - (b) a supply of false information, or
  - (c) a withholding of information,
- the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007.

#### *Set-offs*

- 36 Where a participant in a non-UK scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off) as payable to the Commissioners.

## PART 6

### APPEALS

- 37 (1) An appeal lies to the tribunal with respect to any of the following—
- (a) a refusal to register a person under the OSS scheme;
  - (b) the cancellation of the registration of any person under the OSS scheme;
  - (c) a refusal to make a repayment under paragraph 31 (overpayments), or a decision by the Commissioners as to the amount of a repayment due under that provision;
  - (d) a refusal to make a repayment under paragraph 33(4) (decrease in consideration);
  - (e) any liability to a surcharge under paragraph 28 (default surcharge).

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- (2) Part 5 of this Act (reviews and appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).
- (3) Where the Commissioners have made an assessment under section 73 in reliance on paragraph 22 or 23—
  - (a) section 83(1)(p)(i): (appeals against assessments under section 73(1) etc) applies as if the relevant non-UK return were a return under this Act, and
  - (b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.

## PART 7

### INTERPRETATION

- 38 (1) In this Schedule—
- “administering member State”, in relation to a non-UK scheme, has the meaning given by paragraph 16(2);
  - “the Implementing Regulation” means Council Implementing Regulation (EU) No 282/2011;
  - “non-UK return” means a return required to be made, for a tax period, under a non-UK scheme;
  - “non-UK scheme” has the meaning given by paragraph 16(1);
  - “OSS scheme” has the meaning given by paragraph 1(a);
  - “OSS scheme return” has the meaning given by paragraph 11(1);
  - “participant”, in relation to a non-UK scheme, means a person who is identified under that scheme;
  - “relevant non-UK return” has the meaning given by paragraph 22(3);
  - “reporting period” is to be read in accordance with paragraph 11(2);
  - “scheme supply” has the meaning given by paragraph 2;
  - “tax period” means a period for which a person is required to make a return under a non-UK scheme;
  - “UK VAT” means VAT in respect of scheme supplies treated as made in the United Kingdom;
  - “the VAT Directive” means Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax.
- (2) In relation to a non-UK scheme (or a non-UK return), references in this Schedule to “the tax authorities” are to the tax authorities for the member State under whose law the scheme is established.
  - (3) References in this Schedule to scheme supplies being “treated as made” in the United Kingdom are to their being treated as made in the United Kingdom by paragraph 29(1) of Schedule 9ZB.

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## SCHEDULE 9ZE

Section 40A

### DISTANCE SELLING OF GOODS IMPORTED TO NORTHERN IRELAND: SPECIAL ACCOUNTING SCHEME

#### PART 1

##### INTRODUCTION

###### *Overview*

- 1 In this Schedule—
- (a) Parts 2 and 3 establish a special accounting scheme (the Import One Stop Shop scheme, referred to in this Schedule as the “IOSS scheme”) which may be used by certain persons making supplies of goods to Northern Ireland or into the European Union from countries or territories other than Northern Ireland or member States;
  - (b) Part 4 makes provision about the collection of UK VAT on such supplies;
  - (c) Part 5 makes provision about IOSS representatives;
  - (d) Part 6 makes supplementary provision;
  - (e) Part 7 is about appeals;
  - (f) Part 8 contains definitions.

###### *Qualifying supplies of goods*

- 2 (1) For the purposes of this Schedule, a supply of goods is a “qualifying supply of goods” if—
- (a) the supply is a distance sale of goods imported from third territories or third countries for the purposes of the second paragraph of Article 14(4) of the VAT Directive (as modified by sub-paragraph (2)),
  - (b) the intrinsic value of the consignment of which the goods are part is not more than £135, and
  - (c) the consignment of which the goods are part does not contain goods of a class or description subject to any duty of excise, whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on those goods.
- (2) For the purposes of sub-paragraph (1)(a), the second paragraph of Article 14(4) of the VAT Directive is to be read as if after “Member State” there were inserted “ or Northern Ireland”.

#### PART 2

##### REGISTRATION

###### *The register*

- 3 Persons registered under the IOSS scheme are to be registered in a single register kept by the Commissioners for the purposes of the scheme.

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*Persons who may be registered*

- 4 A person (“P”) may register under the IOSS scheme if—
- (a) P makes or intends to make one or more qualifying supplies of goods in the course of a business that P carries on,
  - (b) one of the following applies—
    - (i) P is established in Northern Ireland,
    - (ii) P is established in a country or territory with which the EU has concluded an agreement making provision corresponding or similar to that contained in Council Directive 2010/24/EU or Regulation (EU) No 904/2010, or
    - (iii) P is represented by an IOSS representative established in Northern Ireland (see Part 5),
  - (c) P is not identified under any provision of the law of a member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive, and
  - (d) P is not barred from registering by—
    - (i) the second paragraph of Article 369l(3) of the VAT Directive, or
    - (ii) any provision of the Implementing Regulation.

*Becoming registered*

- 5 (1) The Commissioners must register a person (“P”) under the IOSS scheme if P—
- (a) satisfies them that the requirements for registration are met (see paragraph 4), and
  - (b) makes a request in accordance with this paragraph (a “registration request”).
- (2) A registration request must state—
- (a) P's name and postal and electronic addresses (including any websites);
  - (b) the number (if any) P has been allocated by the tax authorities in the country in which P belongs;
  - (c) the date on which P began, or intends to begin, making qualifying supplies of goods.
- (3) A registration request must include a statement—
- (a) that P is not established in a member State, or
  - (b) that P is so established, but is represented by an IOSS representative established in Northern Ireland.
- (4) A registration request must—
- (a) contain any further information, and any declaration about its contents, that the Commissioners may by regulations require, and
  - (b) be made by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Date on which registration takes effect*

- 6 Where a person (“P”) is registered under this Schedule, P's registration takes effect on the date determined in accordance with Article 57d of the Implementing Regulation.

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*Further provision about registration*

- 7 (1) Where the Commissioners register a person under the IOSS scheme who is an IOSS representative the Commissioners must also register under the IOSS scheme each person represented by the representative.
- (2) The Commissioners may, by means of a notice published by them, make further provision about registration under this Schedule.

*Notification of changes etc*

- 8 A notification under Article 57h of the Implementing Regulation (notification of certain changes) must be given by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations prescribe.

*Cancellation of registration*

- 9 The Commissioners must cancel the registration of a person (“P”) under the IOSS scheme if—
- (a) P has ceased to make, or no longer intends to make, qualifying supplies of goods and has notified the Commissioners of that fact,
  - (b) the Commissioners otherwise determine that P has ceased to make, or no longer intends to make, such supplies,
  - (c) P has ceased to satisfy any of the other conditions for registration in paragraph 4 and has notified the Commissioners of that fact,
  - (d) the Commissioners otherwise determine that P has ceased to satisfy any of those conditions,
  - (e) the Commissioners determine that P has persistently failed to comply with P's obligations in or under this Schedule or the Implementing Regulation, or
  - (f) any of the circumstances described in Article 369r(3)(a) to (e) of the VAT Directive occur in relation to P.

### PART 3

#### LIABILITY, RETURNS, PAYMENT ETC

*Liability to pay VAT to Commissioners*

- 10 (1) This paragraph applies where a person (“P”)—
- (a) makes a qualifying supply of goods, and
  - (b) is registered under the IOSS scheme when the supply is made.
- (2) P is liable to pay to the Commissioners the VAT on the supply under and in accordance with this Schedule.
- (3) The amount of VAT which a person is liable to pay on the supply is to be determined in accordance with sub-paragraphs (4) to (6), without any deduction of VAT pursuant to Article 168 of the VAT Directive.

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- (4) If the supply is treated as made in the United Kingdom, the amount is the amount of VAT charged on the supply under this Act (see paragraph 34(2)) and that amount is to be regarded for the purposes of this Act as VAT charged in accordance with this Act.
- (5) In a case where sub-paragraph (4) applies and—
  - (a) P has a business establishment, or some other fixed establishment, in the United Kingdom in relation to a business carried on by P, and
  - (b) P is not registered, or liable to be registered, under Schedule 1, no VAT is chargeable on the supply under this Act.
- (6) If the supply is treated as made in a member State, the amount is the amount of VAT charged on the supply in accordance with the law of that member State.

#### *IOSS scheme returns*

- 11 (1) A person (“P”) who is, or has been, registered under this Schedule must submit a return (an “IOSS scheme return”) to the Commissioners for each reporting period.
- (2) Each month for the whole or any part of which P is registered under this Schedule is a “reporting period” for P.

#### *IOSS scheme returns: further requirements*

- 12 (1) An IOSS scheme return is to be made out in sterling.
- (2) Any conversion from one currency into another for the purposes of sub-paragraph (1) is to be made using the exchange rates published by the European Central Bank—
  - (a) for the last day of the reporting period to which the IOSS scheme return relates, or
  - (b) if no such rate is published for that day, for the next day for which such a rate is published.
- (3) An IOSS scheme return—
  - (a) must be submitted to the Commissioners before the end of the calendar month following the month in which the last day of the reporting period to which it relates falls;
  - (b) must be submitted by such electronic means, and in such form and manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

#### *Payment*

- 13 (1) A person who is required to submit an IOSS scheme return must pay, by the deadline for submitting the return, the amounts required in accordance with paragraph 10 in respect of qualifying supplies of goods made in the reporting period to which the return relates.
- (2) A payment under this paragraph must be made in such manner as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

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#### *Availability of records*

- 14 (1) A person (“P”) who is registered under the IOSS scheme must make available to the Commissioners, on request, any obligatory records P is keeping of transactions entered into by P while registered under the scheme.
- (2) The records must be made available by electronic means.
- (3) In sub-paragraph (1) “obligatory records” means records kept in accordance with an obligation imposed in accordance with Article 369x of the VAT Directive.

#### *Amounts required to be paid to member States*

- 15 Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to a member State under Article 46 of Council Regulation (EU) No 904/2010.

### PART 4

#### COLLECTION ETC OF UK VAT

#### *Assessments: general modifications of section 73*

- 16 (1) For the purposes of this Schedule, section 73 (failure to make returns etc) is to be read as if—
- (a) the reference in subsection (1) of that section to returns required under this Act included relevant special scheme returns, and
- (b) references in that section to a prescribed accounting period included a tax period.
- (2) See also the modifications in paragraph 17.
- (3) In this Schedule “relevant special scheme return” means a special scheme return (see paragraph 43(1)) that is required to be made (wholly or partly) in respect of qualifying supplies of goods that are treated as made in the United Kingdom.

#### *Assessments in connection with increase in consideration: modifications*

- 17 (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—
- (a) have effect for the purposes of this Schedule, and
- (b) are in addition to any other modifications of those sections made by this Schedule.
- (2) Section 73 has effect as if, after subsection (3), there were inserted—
- “(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 27 of Schedule 9ZE in respect of an increase in the consideration for a UK supply (as defined in paragraph 27(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.
- (3B) An assessment under subsection (3A)—



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- (a) is of VAT due for the tax period mentioned in paragraph 27(1)(a) of Schedule 9ZE;
  - (b) must be made within the time limits provided for in section 77, and must not be made after the end of the period of—
    - (i) 2 years after the end of the tax period referred to in paragraph 27(1)(a), or if later,
    - (ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.
- (3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment.”
- (3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).
- (4) Section 76 (assessment of amounts due by way of penalty, interest or surcharge is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

*Assessments: consequential modifications*

- 18 References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 16 and 17—
- (a) section 74 (interest on VAT recovered or recoverable by assessment);
  - (b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);
  - (c) section 77 (assessments: time limits etc).

*Deemed amendments of relevant non-UK returns*

- 19 (1) Where a person who has made a relevant special scheme return makes a claim under paragraph 25(7)(b) (overpayments) in relation to an error in the return, the relevant special scheme return is taken for the purposes of this Act to have been amended by the information in the claim.
- (2) Where a person who has made a relevant special scheme return gives the Commissioners a notice relating to the return under paragraph 27(2)(b) (increase or decrease in consideration), the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.
- (3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant special scheme return notifies the Commissioners (after the expiry of the period during which the special scheme return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.

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*Interest on VAT: “reckonable date”*

- 20 (1) Sub-paragraph (2) states the “reckonable date” for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—
- (a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 16, or that could have been so assessed, and
  - (b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.
- (2) The “reckonable date” is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).
- (3) Sub-paragraph (4) states the “reckonable date” for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 16, or could have been so assessed.
- (4) The “reckonable date” is taken to be the latest date by which a non- UK return was required to be made for the tax period to which the amount assessed relates.
- (5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (treated as inserted by paragraph 17(2)), the “reckonable date” for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 27(2).

*Default surcharge: notice of special surcharge period*

- 21 (1) A person who is required to make a relevant special scheme return for a tax period is regarded for the purposes of this paragraph and paragraph 22 as being in default in respect of that period if either—
- (a) conditions 1A and 2A are met, or
  - (b) conditions 1B and 2B are met,
- (but see also paragraph 23).
- (2) The conditions are as follows—
- (a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;
  - (b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return;
  - (c) condition 1B is that, by the deadline for submitting the return, those tax authorities have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;
  - (d) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.
- (3) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a “special surcharge liability notice”) specifying a period—
- (a) ending on the first anniversary of the last day of that tax period, and
  - (b) beginning on the date of the notice.
- (4) A period specified under sub-paragraph (3) is a “special surcharge period”.

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- (5) If a special surcharge liability notice is served in respect of a tax period which ends on or before the day on which an existing special surcharge period ends, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

*Further default after service of notice*

- 22 (1) If a person on whom a special surcharge liability notice has been served—
- (a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and
  - (b) has outstanding special scheme VAT for that tax period,
- the person is to be liable to a surcharge of the amount given by sub-paragraph (2).
- (2) The surcharge is equal to whichever is the greater of—
- (a) £30, and
  - (b) the specified percentage of the person's outstanding special scheme VAT for the tax period.
- (3) The specified percentage depends on whether the tax period is the first, second or third etc period in respect of which the person is in default and has outstanding special scheme VAT, and is—
- (a) for the first such tax period, 2%;
  - (b) for the second such tax period, 5%;
  - (c) for the third such tax period, 10%;
  - (d) for each such tax period after the third, 15%.
- (4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a special scheme in respect of qualifying supplies of goods treated as made in the United Kingdom.
- (5) A person has “outstanding special scheme VAT” for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a special scheme return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as “the person's outstanding special scheme VAT” for the tax period).

*Default surcharge: exceptions for reasonable excuse etc*

- 23 (1) A person who would otherwise have been liable to a surcharge under paragraph 22(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—
- (a) the special scheme return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or the VAT not having been so despatched.
- (2) Where sub-paragraph (1) applies to a person—
- (a) the person is treated as not having been in default in respect of the tax period in question, and

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- (b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.
- (3) A default is “material” to a surcharge if—
  - (a) it is the default which gives rise to the surcharge, under paragraph 22(1), or
  - (b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.
- (4) A default is left out of account for the purposes of paragraphs 21(3) and 22(1) if—
  - (a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and
  - (b) by reason of that conduct the person concerned is assessed to a penalty under that section.
- (5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 21(3) and 22(1).
- (6) Section 71(1) (meaning of “reasonable excuse”) applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

*Interest in certain cases of official error*

- 24 (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—
  - (a) a person has accounted under a special scheme for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 25 to pay (or repay) an amount to the person, or
  - (b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a special scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.
- (2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.
- (3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a non-UK special scheme.
- (4) In section 78, as it applies as a result of this section, “output tax” has the meaning that expression would have if the reference in section 24(2) to a “taxable person” were to a “person”.

*Overpayments*

- 25 (1) A person may make a claim if the person—
  - (a) has made a special scheme return for a tax period relating wholly or partly to qualifying supplies of goods treated as made in the United Kingdom,

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- (b) has accounted to the tax authorities for the administering member State for VAT in respect of those supplies, and
  - (c) in doing so has brought into account as UK VAT due to those authorities an amount (“the overpaid amount”) that was not UK VAT due to them.
- (2) A person may make a claim if the person has, as a participant in a special scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due (“the overpaid amount”), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).
- (3) A person who is or has been a participant in a special scheme may make a claim if the Commissioners—
- (a) have assessed the person to VAT for a tax period, and
  - (b) in doing so, have brought into account as VAT an amount (“the amount not due”) that was not VAT due.
- (4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.
- (5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.
- (6) Where—
- (a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and
  - (b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,
- the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.
- (7) The reference in sub-paragraph (1) to a claim is to a claim made—
- (a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the special scheme return mentioned in sub-paragraph (1)(a), or
  - (b) (after the expiry of the period during which the special scheme return may be amended under Article 61) to the Commissioners.
- (8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except to the extent that is required by Article 63 of the Implementing Regulation.

*Overpayments: supplementary*

- 26 (1) In section 80 (credit for, or repayment of, overstated or overpaid VAT), subsections (3) to (3C) (unjust enrichment) and (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited) have effect as if—
- (a) a claim—
    - (i) under paragraph 25(1) were a claim under section 80(1),
    - (ii) under paragraph 25(2) were a claim under section 80(1B), and
    - (iii) under paragraph 25(3) were a claim under section 80(1A);
  - (b) references in that section to a prescribed accounting period included a tax period.

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- (2) In section 80(3) to (3C), (4A), (4C) and (6), as modified by sub-paragraph (1), references to the crediting of amounts are to be read as including the payment of amounts.
- (3) The Commissioners are not liable to repay the overpaid amount on a claim made—
  - (a) under paragraph 25(2), or
  - (b) as mentioned in paragraph 25(7)(b),
 if the claim is made more than 4 years after the relevant date.
- (4) On a claim made under paragraph 25(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.
- (5) The “relevant date” is—
  - (a) in the case of a claim under paragraph 25(1), the end of the tax period mentioned in paragraph 25(1)(a), except in the case of a claim resulting from an incorrect disclosure;
  - (b) in the case of a claim under paragraph 25(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;
  - (c) in the case of a claim under paragraph 25(2), the date on which the payment was made;
  - (d) in the case of a claim under paragraph 25(3), the end of the quarter in which the assessment was made.
- (6) A person makes an “incorrect disclosure” where—
  - (a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period (“the disclosed amount”),
  - (b) the disclosure is made in a later tax period, and
  - (c) some or all of the disclosed amount is not in fact VAT due.

*Increase or decrease in consideration for a supply*

- 27 (1) This paragraph applies where—
  - (a) a person makes a special scheme return for a tax period (“the affected tax period”) relating (wholly or partly) to a UK supply, and
  - (b) after the return has been made the amount of the consideration for the UK supply increases or decreases.
- (2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—
  - (a) amend the special scheme return to take account of the increase or decrease, or
  - (b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the special scheme return has expired) notify the Commissioners of the adjustment needed to the figures in the special scheme return because of the increase or decrease.
- (3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of

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- the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—
- (a) the amount of VAT that was chargeable on the supply before the increase in consideration, and
  - (b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.
- (4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.
- (5) The Commissioners may by regulations specify—
- (a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;
  - (b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).
- (6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).
- (7) In this paragraph “UK supply” means a qualifying supply of goods that is treated as made in the United Kingdom.

#### *Bad debts*

- 28 Where a participant in a special scheme—
- (a) has submitted a special scheme return to the tax authorities for the administering member State, and
  - (b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a qualifying supply of goods that is treated as made in the United Kingdom,
- the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

#### *Penalties for errors: disclosure*

- 29 Where a person corrects a special scheme return in a way that constitutes telling the tax authorities for the administering member State about—
- (a) an inaccuracy in the return,
  - (b) a supply of false information, or
  - (c) a withholding of information,
- the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007 (reductions for disclosure).

#### *Set-offs*

- 30 Where a participant in a special scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT

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is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off) as payable to the Commissioners.

## PART 5

### IOSS REPRESENTATIVES

#### *Eligibility and representation*

- 31 (1) A person may register as an IOSS representative for the purposes of the IOSS scheme if the person is established in Northern Ireland.
- (2) A person may not be represented by more than one IOSS representative at a time.

#### *Register*

- 32 (1) Before a person (“R”) can be registered as an IOSS representative, R must provide to the Commissioners the information required by Article 369p(2) and (3) of the VAT Directive.
- (2) The Commissioners may by regulations or by means of a notice published by them make further provision about the registration of a person as an IOSS representative.
- (3) The provision that may be made under sub-paragraph (2) includes provision—
- (a) requiring the registration of the names of IOSS representatives against the names of the person (or persons) they represent in the register kept for the purposes of this Schedule;
  - (b) imposing requirements to be met before a person may be registered in that register as an IOSS representative or before such registration may be cancelled;
  - (c) making it the duty of an IOSS representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that the representative's appointment has taken effect or has ceased to have effect;
  - (d) allowing the Commissioners to refuse to register a person as an IOSS representative, or to cancel a person's registration as an IOSS representative, in such circumstances as may be specified in the regulations;
  - (e) as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, an IOSS representative;
  - (f) about the making or deletion of entries relating to IOSS representatives in the register kept for the purposes of this Schedule.

#### *Duties and obligations*

- 33 Where a person registered under the IOSS scheme (“P”) is represented by an IOSS representative (“R”), R—
- (a) may act on P's behalf in relation to the IOSS scheme,
  - (b) must secure (where appropriate by acting on P's behalf) P's compliance with and discharge of the obligations and liabilities to which P is subject by virtue of or under this Schedule, and
  - (c) is personally liable in respect of—



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- (i) any failure to secure P's compliance with or discharge of any such obligation or liability, and
- (ii) anything done for purposes connected with acting on P's behalf, as if the obligations and liabilities imposed on P were imposed jointly and severally on R and P.

## PART 6

### SUPPLEMENTARY PROVISION

#### *Registration under this Act*

- 34 (1) Notwithstanding any provision in this Act to the contrary (apart from paragraph 1(1A) of Schedule 1 as it has effect in accordance with paragraph 7 of Schedule 9ZF), a participant in a special scheme is not required to be registered under this Act by virtue of making qualifying supplies of goods.
- (2) Where a participant in a special scheme (“the scheme participant”) makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—
- (a) whether or not VAT is chargeable under this Act on those supplies,
  - (b) how much VAT is chargeable under this Act on those supplies, and
  - (c) any other matter that the Commissioners may specify by regulations,
- that the scheme participant is registered under this Act.
- (3) Supplies of scheme services made by the scheme participant are “relevant supplies” if—
- (a) the value of the supplies must be accounted for in a special scheme return, and
  - (b) the supplies are treated as made in the United Kingdom.
- (4) References in this Schedule to a person being registered under this Act do not include a reference to that person being registered under the IOSS scheme.

#### *De-registration*

- 35 Where a person (“P”) who is registered under Schedule 1 or 1A solely by virtue of the fact that P makes or intends to make qualifying supplies of goods satisfies the Commissioners that P intends to apply for—
- (a) registration under this Schedule, or
  - (b) identification under any provision of the law of a member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive,
- the Commissioners may, if P so requests, cancel P's registration under Schedule 1 or, as the case may be, 1A with effect from the day on which the request is made or from such later date as may be agreed between P and the Commissioners.

#### *Scheme participants who are also registered under this Act*

- 36 (1) A person who—
- (a) is a participant in a special scheme, and

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- (b) is also registered, or required to be registered, under this Act, is not required to discharge any obligation placed on the person as a taxable person, so far as the obligation relates to relevant supplies unless the obligation is an input tax obligation.
- (2) The reference in sub-paragraph (1) to an obligation placed on the person as a taxable person is to an obligation—
- (a) to which the person is subject under or by virtue of this Act, and
  - (b) to which the person would not be subject if the person were neither registered nor required to be registered under this Act.
- (3) A supply made by a participant in a special scheme is a “relevant supply” if—
- (a) the value of the supply must be accounted for in a return required to be made by the participant under the special scheme, and
  - (b) the supply is treated as made in the United Kingdom.
- (4) In section 25(2) (deduction of input tax from output tax by a taxable person) the reference to output tax that is due from the taxable person does not include any VAT that the taxable person is liable under a special scheme to pay to the tax authorities for the administering member State.
- (5) In this paragraph, “input tax obligation” means an obligation imposed on a taxable person relating to a claim to deduct under section 25(2) or to the payment of a VAT credit.

*No import VAT chargeable on qualifying supplies of goods*

- 37 No charge to VAT occurs on the importation of goods into the United Kingdom as a result of their entry into Northern Ireland, or their removal to Northern Ireland from Great Britain, where—
- (a) that importation is in the course of a supply of those goods which is a qualifying supply of goods, and
  - (b) the person making the supply is registered under the IOSS scheme.

*Time and place of supply of goods*

- 38 (1) Sub-paragraphs (3) and (4) apply (instead of sections 6 and 7) for the purposes of determining when and where a supply of goods within sub-paragraph (2) takes place.
- (2) A supply of goods is within this sub-paragraph where—
- (a) the supply of those goods is a qualifying supply of goods,
  - (b) the supply is not facilitated by an online marketplace,
  - (c) the person making the supply is registered under the IOSS scheme, and
  - (d) the goods are supplied to a person in Northern Ireland or a member State.
- (3) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted, within the meaning of Article 61b of the Implementing Regulation.
- (4) The goods are to be treated as supplied—
- (a) in the case of goods supplied to a person in Northern Ireland, in the United Kingdom;

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- (b) in the case of goods supplied to a person in a member State, in that member State.

*Place of supply of goods: supplies facilitated by online marketplaces*

- 39 (1) Sub-paragraph (2) applies (instead of section 6) to a supply of goods deemed to have taken place by section 5B(2)(a) or (b) as it has effect in accordance with paragraph 1B of Schedule 9ZC.
- (2) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted within the meaning of Article 41a of the Implementing Regulation.
- (3) Sub-paragraph (4) applies (instead of section 7) to a supply of goods deemed to have taken place by section 5B(2)(a) where the operator of the online marketplace that facilitated the supply of goods from P to R (within the meaning of that section) is registered under the IOSS scheme.
- (4) The supply of goods is to be treated as taking place outside the United Kingdom.
- (5) Sub-paragraph (6) applies (instead of section 7) to a supply of goods deemed to have taken place by section 5B(2)(b) where the operator of the online marketplace that facilitated the supply of goods from P to R (within the meaning of that section) is registered under the IOSS scheme.
- (6) The supply of goods is to be treated as taking place in the United Kingdom.

*VAT representatives*

- 40 Section 48(1ZA) (VAT representatives) does not permit the Commissioners to direct a participant in a special scheme to appoint a VAT representative.

*Refund of UK VAT*

- 41 (1) Part 21 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) has effect in relation to a person registered under the IOSS scheme as it applies to a trader (within the meaning of those Regulations) subject to the following modifications.
- (2) Regulation 186 (repayments of VAT) has effect as if after “imported by him into the United Kingdom” there were inserted “by virtue of their entry into Northern Ireland”.
- (3) That Part has effect as if regulations 187, 188(1) and 188(2)(b) were omitted (VAT representatives and persons to whom Part 21 applies).

**PART 7**

APPEALS

*Appeals*

- 42 (1) An appeal lies to the tribunal with respect to any of the following—
- (a) a refusal to register a person under the IOSS scheme;
- (b) the cancellation of the registration of any person under the IOSS scheme;

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- (c) a refusal to make a repayment under paragraph 25 (overpayments), or a decision by the Commissioners as to the amount of a repayment due under that provision;
  - (d) a refusal to make a repayment under paragraph 27(4) (decrease in consideration);
  - (e) any liability to a surcharge under paragraph 22 (default surcharge).
- (2) Part 5 of this Act (reviews and appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).
- (3) Where the Commissioners have made an assessment under section 73 in reliance on paragraph 16 or 17—
- (a) section 83(1)(p)(i) (appeals against assessments under section 73(1) etc) applies as if the special scheme return were a return under this Act, and
  - (b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.

## PART 8

### INTERPRETATION

#### *Interpretation*

- 43 (1) In this Schedule—
- “administering member State”, in relation to a special scheme, means the member State under whose law the scheme is established;
  - “the Implementing Regulation” means Council Implementing Regulation (EU) No 282/2011;
  - “IOSS scheme” has the meaning given by paragraph 1(a);
  - “IOSS scheme return” has the meaning given by paragraph 11(1);
  - “participant in a special scheme” means a person who—
    - (a) is registered under the IOSS scheme, or
    - (b) is identified under any provision of the law of a member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive;
  - “qualifying supply of goods” has the meaning given by paragraph 2;
  - “registration request” is to be construed in accordance with paragraph 5(1) (b);
  - “relevant special scheme return” has the meaning given by paragraph 16(3);
  - “reporting period” is to be read in accordance with paragraph 11(2);
  - “special scheme” means—
    - (a) the accounting scheme under this Schedule, or
    - (b) any other scheme, under the law of a member State, implementing Section 4 of Chapter 6 of Title XII of the VAT Directive;
  - “special scheme return” means—
    - (a) an IOSS scheme return, or

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- (b) a value added tax return submitted to the tax authorities of a member State;  
“tax period” means—
    - (a) a reporting period (under the accounting scheme under this Schedule),  
or
    - (b) any other period for which a person is required to make a return under a special scheme;“UK VAT” means VAT which a person is liable to pay (whether in the United Kingdom or a member State) in respect of qualifying supplies treated as made in the United Kingdom at a time when the person is or was a participant in a special scheme;  
“value added tax return”, in relation to a member State, means any value added tax return required to be submitted under any provision of the law of that member State which implements Article 369s of the VAT Directive;  
“the VAT Directive” means Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax.
- (2) References in this Schedule to qualifying supplies of goods being “treated as made”—
- (a) in the United Kingdom are to their being treated as made in the United Kingdom by paragraph 38 or 39;
  - (b) in a member State are to their being treated as made in that member State by virtue of any provision of the law of that member State which gives effect to Article 33(c) of the VAT Directive.

## SCHEDULE 9ZF

Section 40A

### MODIFICATIONS ETC IN CONNECTION WITH SCHEDULES 9ZD AND 9ZE

#### PART 1

##### MODIFICATIONS OF THIS ACT

- 1 This Act has effect subject to the following modifications.
- 2 In section 4 (scope of VAT on taxable supplies), after subsection (1) insert—
  - “(1A) But a person is not a “taxable person” for the purposes of subsection (1) merely by virtue of the person being registered under Schedule 9ZD (the OSS scheme).”
- 3 (1) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) has effect subject to the following modifications.
  - (2) Subsection (1)(a) has effect as if for “or 59A,” there were substituted “, section 59A, paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, ”.
  - (3) That section has effect as if after subsection (3) there were inserted—
    - “(3A) In the case of a surcharge under paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, the assessment under this section is of an amount due in

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respect of “the relevant period”, that is to say, the tax period (see section 76A) in respect of which the person is in default and in respect of which the surcharge arises.”

4 This Act has effect as if after section 76 there were inserted—

**“Section 76: cases involving special accounting schemes**

(1) References in section 76 to a prescribed accounting period are to be read as including a tax period so far as that is necessary for the purposes of the references in section 76(1)(a) to paragraph 28 of Schedule 9ZD and paragraph 22 of Schedule 9ZE (assessment of surcharge in certain cases involving special accounting schemes).

(2) References in section 77 to a prescribed accounting period are to be read accordingly.

(3) In this section and section 76 “tax period” means a tax period as defined in paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE, as the case may be.”

5 Section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect as if in subsection (7), after “this section” there were inserted “ (and paragraph 31 of Schedule 9ZD and paragraph 25 of Schedule 9ZE) ”.

6 Section 84 (further provision about appeals) has effect as if in subsection (6), after “section 70” there were inserted “ or (as the case may be) paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE ”.

7 Schedule 1 (registration in respect of taxable supplies: UK establishment) has effect as if in paragraph 1 (liability to be registered), after sub-paragraph (1) there were inserted—

“(1A) Where the person is UK-established and registered under Schedule 9ZE, in determining the value of a person's supplies for the purpose of sub-paragraph (1), any qualifying supply of goods (within the meaning of that Schedule) made by the person that is treated as supplied in the United Kingdom by virtue of paragraph 38 of that Schedule is to be taken into account.”

8 Schedule 1A (registration in respect of taxable supplies: non-UK establishment) has effect as if after paragraph 11 there were inserted—

“12 Paragraphs 8 to 11 are subject to paragraph 18 of Schedule 9ZD and paragraph 35 of Schedule 9ZE (cancellation of registration of persons seeking to be registered under the Schedule concerned).”

## PART 2

### MODIFICATIONS ETC OF OTHER ACTS

#### *Finance Act 2007*

9 In Schedule 24 to FA 2007, Part 1 (error in taxpayer's document) has effect as if—

(a) in the table, after the entry relating to a VAT return, statement or declaration in connection with a claim there were inserted—

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“VAT Return under a special accounting scheme.”;

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(b) before sub-paragraph (5) there were inserted—

“(4A) In this paragraph “return under a special accounting scheme” means any of the following, so far as relating to supplies of goods treated as made in the United Kingdom—

- (a) an OSS scheme return or a relevant non-UK return under Schedule 9ZD to VATA 1994 (see paragraphs 11 and 22(3) of that Schedule);
- (b) a relevant special scheme return under Schedule 9ZE to VATA 1994 (see paragraphs 11 and 16(3) of that Schedule).”

#### *Finance Act 2009*

10 FA 2009 has effect subject to the following modifications.

11 Section 101 (late payment interest on sums due to HMRC) has effect as if after subsection (9) there were inserted—

“(10) The reference in subsection (1) to amounts payable to HMRC includes—

- (a) amounts of UK VAT payable under a non-UK scheme;
- (b) amounts of UK VAT payable under a special scheme;

and references in Schedule 53 to amounts due or payable to HMRC are to be read accordingly.

(11) In subsection (10)—

- (a) expressions used in paragraph (a) have the same meaning as in Schedule 9ZD to VATA 1994 (the OSS scheme);
- (b) expressions used in paragraph (b) have the same meaning as in Schedule 9ZE to VATA 1994 (the IOSS scheme).”

12 Section 108 (suspension of penalties during currency of agreement for deferred payment) has effect as if in the table in subsection (5), in the entry relating to value added tax, in the second column, after “1994” there were inserted, “ or under paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, to that Act ”.

#### *Taxation (Cross-border Trade) Act 2018*

13 (1) Section 54 of the Taxation (Cross-border Trade) Act 2018 (prohibition on collection of certain taxes or duties on behalf of country or territory without reciprocity) does not apply in relation to VAT collected by HMRC under Schedule 9ZD or 9ZE.

(2) But sub-paragraph (1) is not to be read as having any bearing on whether or not, in the absence of that sub-paragraph, accounting for VAT collected under those Schedules would otherwise have been authorised.

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### PART 3

#### MODIFICATIONS OF SECONDARY LEGISLATION

##### *Value Added Tax Regulations 1995*

- 14 The Value Added Tax Regulations 1995 (S.I. 1995/2518) have effect subject to the following modifications.
- 15 In Part 5A (reimbursement arrangements), regulation 43A (interpretation of Part 5A) has effect as if, in the definition of “claim”, after paragraph (a) there were inserted—
- “(b) a claim made under paragraph 31 of Schedule 9ZD, or paragraph 25 of Schedule 9ZE, to the Act (claims which have effect for the purpose of section 80(3) of the Act as if they were section 80 claims).”
- 16 (1) Part 19 (bad debt relief (the new scheme)) has effect subject to the following modifications.
- (2) Regulation 165 (interpretation of Part 19) has effect as if—
- (a) in the definition of “claim”, after “regulations 166” there were inserted “ or 166A ”;
- (b) in the definition of “return”, after “regulation 25” there were inserted “but “relevant non-UK return” has the meaning given by paragraph 22(3) of Schedule 9ZD to the Act and “relevant special scheme return” has the meaning given by paragraph 16(3) of Schedule 9ZE to the Act”;
- (c) at the appropriate place there were inserted—
- ““tax period” has the meaning given by paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE (as the case may be) to the Act”.
- (3) Regulation 166 (the making of a claim to the Commissioners) has effect as if, at the beginning of paragraph (1) there were inserted “Subject to regulation 166A, and”.
- (4) That Part has effect as if after regulation 166 there were inserted—
- “The making of a claim to the Commissioners: special accounting schemes*
- 166A(1) This regulation applies where the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return.
- (2) Where this regulation applies, the claimant must make the claim by—
- (a) amending, in accordance with Article 61 of the Implementing Regulation, that relevant non-UK return or relevant special scheme return, or
- (b) (where the period during which a person is entitled to make such an amendment has expired) notifying the Commissioners of the claim in writing in English.”
- (5) Regulation 168 (records required to be kept by the claimant) has effect as if after paragraph (3) there were inserted—



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“(4) Where regulation 166AA applies, “prescribed accounting period” in this regulation is to be read as “tax period”.”

- (6) Regulation 171 (repayment of a refund) has effect as if at—
- (a) at the beginning of paragraph (1) there were inserted “Subject to regulation 171A,”;
  - (b) at the beginning of paragraph (2) there were inserted “Subject to regulation 171B,”;
  - (c) at the beginning of paragraph (3) there were inserted “subject to regulation 171B and,”.
- (7) Those Regulations have effect as if after regulation 171 there were inserted—

*“Calculation of repayment where reduction  
in consideration: special accounting schemes*

171A In a case falling within sub-paragraph (b)(iii) of regulation 171(1) where the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, the amount to be repaid is such an amount as is equal to the amount by which the VAT chargeable on the relevant supply is reduced.

*Timing and method of repayments: special accounting schemes*

- 171~~B~~) Where—
- (a) the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, and
  - (b) a repayment is required by regulation 171(1),
- that repayment must be made no later than twenty days after the end of the tax period in which the payment for the relevant supply is received or the reduction in consideration is accounted for in the claimant's business accounts.
- (2) Where—
- (a) the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, and
  - (b) a repayment is required by regulation 171(3),
- that repayment must be made no later than twenty days after the end of the tax period in which the failure to comply first occurred.
- (3) In either case the repayment must be made by—
- (a) amending the relevant non-UK return or the relevant special scheme return for the tax period in which the VAT on the relevant supply was brought into account, or
  - (b) (where the relevant period has expired) sending the sum due to the Commissioners.
- (4) In sub-paragraph (3)(b), the “relevant period” is the period of 3 years beginning with the day on which the relevant non-UK return or the relevant special scheme return for the tax period in which the VAT on the relevant supply was brought into account was required to be submitted.”

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- 17 (1) Part 20A of those Regulations (Repayments to EU traders incurring VAT on goods in Northern Ireland) has effect subject to the following modifications.
- (2) Regulation 184D has effect as if, in the alternative version of regulation 173B(2)(c), after “Northern Ireland” there were inserted “, unless it is a supply or importation—
- (a) that is a scheme supply for the purposes of Schedule 9ZD to the Act, and
  - (b) that is made by a person who is registered under that Schedule when the supply is made”;
- (3) Regulation 184I has effect as if, in the alternative version of regulation 173L(2), after “Northern Ireland” there were inserted “, unless it is a supply—
- (a) that is a scheme supply for the purposes of Schedule 9ZD of the Act, and
  - (b) that is made by a person who is registered under that Schedule when the supply is made”.
- 18 The Regulations have effect as if after regulation 213 there were inserted—

## “PART 26

### UK OSS AND IOSS SPECIAL ACCOUNTING SCHEMES: REGISTRATION, NOTIFICATION OF CHANGES AND RETURNS

#### *Interpretation*

214 (1) In this Part—

“applicant” means a person making a registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act;

“principal VAT Directive” means Council Directive [2006/112/EC](#) of 28 November on the common system of value added tax;

“relevant place” means Northern Ireland or a member State.

(2) In regulations 215 and 216, references to a number allocated under Article 362 of the principal VAT Directive mean a number allocated at any time under that Article.

#### *Registration requests: OSS scheme*

215 A registration request under paragraph 5 of Schedule 9ZD to the Act must contain details of—

- (a) any VAT identification number or tax reference number by which the applicant is identified for VAT purposes by any relevant place in accordance with Article 214, Article 239 or Article 240 of the principal VAT Directive, and the name of that relevant place,
- (b) any number previously allocated to the applicant by a member State or the United Kingdom under Article 362 of the principal VAT Directive, or otherwise for the purposes of Article 369d of the principal VAT Directive, and the name of that relevant place,
- (c) where the applicant has previously been identified under a non-UK scheme (within the meaning of Schedule 9ZD to the Act), the date the applicant ceased to be so identified,

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- (d) whether the applicant is treated as a member of a group under any of sections 43A to 43D of the Act, and
- (e) the name of any relevant place in which the applicant has a fixed establishment, and the address of each such fixed establishment.

*Registration requests: IOSS scheme*

- 216 A registration request under paragraph 5 of Schedule 9ZE to the Act must contain details of—
- (a) any VAT identification number or tax reference number by which the applicant is identified for VAT purposes by any relevant place in accordance with Article 214, Article 239 or Article 240 of the principal VAT Directive, and the name of that relevant place, and
  - (b) any number previously allocated to the applicant by a member State or the United Kingdom under Article 362 of the principal VAT Directive, or otherwise for the purposes of Article 369q of the principal VAT Directive, and the name of that relevant place.

*Registration requests: declaration*

- 217 A registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act must also contain a declaration by the applicant that the information the applicant has provided in the registration request is accurate and complete to the best of the applicant's knowledge.

*Requirement to use electronic portal*

- 218 The following communications must be made by using the electronic portal set up by the Commissioners for the purposes of implementing Sections 3 and 4 of Chapter 6 of Title XII to the principal VAT Directive—
- (a) a registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act;
  - (b) the information required by paragraph 8 of Schedule 9ZD or paragraph 8 of Schedule 9ZE to the Act;
  - (c) a return required under paragraph 11 of Schedule 9ZD or paragraph 11 of Schedule 9ZE to the Act.

## PART 27

### NON-UK OSS AND IOSS SPECIAL ACCOUNTING SCHEMES: ADJUSTMENTS, CLAIMS AND ERROR CORRECTION

*Meaning of “tax period”*

- 219 In this Part, “tax period” has the meaning given by paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE (as the case may be) to the Act.

*Amending a special accounting scheme return*

- 219A) Any amendment to a return under a special accounting scheme for a tax period in which a relevant supply was brought into account must—

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- (a) be made in a subsequent return under a special accounting scheme of the same type,
  - (b) be made before the end of the period of three years beginning with the day on which the return for the tax period in which the relevant supply was brought into account was required to be submitted, and
  - (c) include details of—
    - (i) the member State in which the relevant supply was made;
    - (ii) the tax period to which the amendment relates;
    - (iii) the amount of VAT concerned.
- (2) In this regulation, “return under a special accounting scheme” means any of the following, so far as relating to supplies of goods treated as made in the United Kingdom—
- (a) an OSS scheme return or a relevant non-UK return under Schedule 9ZD to the Act (see paragraphs 11 and 22(3) of that Schedule);
  - (b) an IOSS scheme return or a relevant special scheme return under Schedule 9ZE to VATA 1994 (see paragraphs 11 and 16(3) of that Schedule).

*Correction of errors on non-UK and special scheme returns more than 3 years after the date the original return was required to be made*

- 220 (1) In this regulation “notice” means a notice given under paragraph 25(3) of Schedule 9ZD or paragraph 19(3) of Schedule 9ZE to the Act.
- (2) A person giving a notice (P) must do so—
- (a) no later than 4 years after the end of the tax period in respect of which the return identified in the notice was required to be made; and
  - (b) in writing in English.
- (3) P must also provide such documentary evidence in support of the notice as P possesses.

*Claims in respect of overpaid VAT*

- 221 (1) A person making a claim under paragraph 31(1) of Schedule 9ZD, or paragraph 25(1) of Schedule 9ZE, to the Act must provide to the Commissioners at the time of making the claim a statement in writing in English explaining how the claim is calculated.
- (2) A person making a claim under any other provision of paragraph 31 of Schedule 9ZD, or paragraph 25 of Schedule 9ZE to the Act must—
- (a) make that claim to the Commissioners, and
  - (b) provide to the Commissioners at the time of making the claim a statement in writing in English explaining how the claim is calculated.

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*Increases or decreases in consideration occurring more than 3 years after the end of the affected tax period*

- 222 (1) A claim or other notice made under paragraph 33(2)(b) of Schedule 9ZD or paragraph 27(2)(b) of Schedule 9ZE to the Act must be made in writing in English.
- (2) A person making a payment—
- (a) under paragraph 33(3) of Schedule 9ZD to the Act in a case falling within paragraph 33(2)(b) of that Schedule, or
  - (b) under paragraph 27(3) of Schedule 9ZE to the Act in a case falling within paragraph 27(2)(b) of that Schedule,
- must do so no later than twenty days after the end of the tax period in which the increase in consideration is accounted for in the person's business accounts.

*Scheme participants who are also taxable persons: disapplication of paragraph 19(1)*

- 223 (1) Paragraph 19(1) of Schedule 9ZD to the Act is not to apply in the case of an input tax obligation.
- (2) In this regulation “input tax obligation” means an obligation imposed on a taxable person relating to a claim to deduction under section 25(2) of the Act or to payment of a VAT credit.”]

[<sup>F1549</sup>SCHEDULE 9A

ANTI-AVOIDANCE PROVISIONS: GROUPS

**Textual Amendments**

**F1549**Sch. 9A inserted (29.4.1996) by 1996 c. 8, s. 31, Sch. 4

*Power to give directions*

- 1 (1) Subject to paragraph 2 below, the Commissioners may give a direction under this Schedule if, in any case—
- (a) a relevant event has occurred;
  - (b) the condition specified in sub-paragraph (3) below is fulfilled;
  - (c) that condition would not be fulfilled apart from the occurrence of that event; and
  - (d) in the case of an event falling within sub-paragraph (2)(b) below, the transaction in question is not a supply which is the only supply by reference to which the case falls within paragraphs (a) to (c) above.
- (2) For the purposes of this Schedule, a relevant event occurs when a [<sup>F1550</sup>person]—
- (a) begins to be, or ceases to be, treated as a member of a group; or

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- (b) enters into any transaction.
- (3) The condition mentioned in sub-paragraph (1) above is that—
- (a) there has been, or will or may be, a taxable supply on which VAT has been, or will or may be, charged otherwise than by reference to the supply's full value;
  - (b) there is at least a part of the supply which is not or, as the case may be, would not be zero-rated; and
  - (c) the charging of VAT on the supply otherwise than by reference to its full value gives rise or, as the case may be, would give rise to a tax advantage.
- (4) For the purposes of this paragraph the charging of VAT on a supply ("the undercharged supply") otherwise than by reference to its full value shall be taken to give rise to a tax advantage if, and only if, a person has become entitled—
- (a) to credit for input tax allowable as attributable to that supply or any part of it, or
  - (b) in accordance with regulations under section 39, to any repayment in respect of that supply or any part of it.
- (5) The cases where a person shall be taken for the purposes of sub-paragraph (4) above to have become entitled to a credit for input tax allowable as attributable to the undercharged supply, or to a part of it, shall include any case where—
- (a) a person has become entitled to a credit for any input tax on the supply to him, or the <sup>F1551</sup>... importation by him, of any goods or services; and
  - (b) whatever the supplies to which the credit was treated as attributable when the entitlement to it arose, those goods or services are used by him in making the undercharged supply, or a part of it.
- (6) For the purposes of sub-paragraphs (4) and (5) above where—
- (a) there is a supply of any of the assets of a business of a person ("the transferor") to a person to whom the whole or any part of that business is transferred as a going concern ("the transferee"), and
  - (b) that supply is treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services,
- the question, so far as it falls to be determined by reference to those assets, whether a credit for input tax to which any person has become entitled is one allowable as attributable to the whole or any part of a supply shall be determined as if the transferor and the transferee were the same person.
- (7) Where, in a case to which sub-paragraph (6) above applies, the transferor himself acquired any of the assets in question by way of a supply falling within paragraphs (a) and (b) of that sub-paragraph, that sub-paragraph shall have the effect, as respects the assets so acquired, of requiring the person from whom those assets were acquired to be treated for the purposes of sub-paragraphs (4) and (5) above as the same person as the transferor and the transferee, and so on in the case of any number of successive supplies falling within those paragraphs.
- (8) For the purposes of this paragraph any question—
- (a) whether any credit for input tax to which a person has become entitled was, or is to be taken to have been, a credit allowable as attributable to the whole or any part of a supply, or

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- (b) whether any repayment is a repayment in respect of the whole or any part of a supply,
- shall be determined, in relation to a supply of a right to goods or services or to a supply of goods or services by virtue of such a right, as if the supply of the right and supplies made by virtue of the right were a single supply of which the supply of the right and each of those supplies constituted different parts.
- (9) References in this paragraph to the full value of a supply are references to the amount which (having regard to any direction under paragraph 1 of Schedule 6) would be the full value of that supply for the purposes of the charge to VAT if that supply were not a supply falling to be disregarded, to any extent, in pursuance of section 43(1)(a).
- (10) References in this paragraph to the supply of a right to goods or services include references to the supply of any right, option or priority with respect to the supply of goods or services, and to the supply of an interest deriving from any right to goods or services.

#### Textual Amendments

**F1550** Word in Sch. 9A para. 1(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(2\)](#); S.I. 2019/1348, reg. 2

**F1551** Words in Sch. 9A para. 1(5)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 96\(2\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### *Restrictions on giving directions*

- 2 [ The Commissioners shall not give a direction under this Schedule by reference to a <sup>F1552</sup>(1)] relevant event if they are satisfied that—
- (a) the change in the treatment of the [<sup>F1553</sup>person], or
- (b) the transaction in question,
- had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) above.

[ This paragraph shall not apply where the relevant event is the termination of a <sup>F1554</sup>(2) [<sup>F1555</sup>person's] treatment as a member of a group by a notice under section 43C(1) or (3).]

#### Textual Amendments

**F1552** Sch. 9A para. 2(1) renumbered (27.7.1999) by 1999 c. 16, s. 16, [Sch. 2 para. 5\(2\)](#)

**F1553** Word in Sch. 9A para. 2(1)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(3\)\(a\)](#); S.I. 2019/1348, reg. 2

**F1554** Sch. 9A para. 2(2) inserted (27.7.1999) by 1999 c. 16, s. 16, [Sch. 2 para. 5\(2\)](#)

**F1555** Word in Sch. 9A para. 2(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(3\)\(b\)](#); S.I. 2019/1348, reg. 2

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### *Form of directions under Schedule*

- 3 (1) The directions that may be given by the Commissioners under this Schedule are either—
- (a) a direction relating to any supply of goods or services that has been made, in whole or in part, by one [<sup>F1556</sup>person] to another; or
  - (b) a direction relating to a particular [<sup>F1557</sup>person].
- (2) A direction under this Schedule relating to a supply shall require it to be assumed (where it would not otherwise be the case) that, to the extent described in the direction, the supply was not a supply falling to be disregarded in pursuance of section 43(1)(a).
- (3) A direction under this Schedule relating to a [<sup>F1558</sup>person] shall require it to be assumed (where it would not otherwise be the case) that, for such period (comprising times before the giving of the direction or times afterwards or both) as may be described in the direction, the [<sup>F1558</sup>person]—
- (a) did not fall to be treated, or is not to be treated, as a member of a group, or of a particular group so described; or
  - (b) fell to be treated, or is to be treated, as a member of any group so described of which, for that period, it was or is eligible to be a member.
- (4) Where a direction under this Schedule requires any assumptions to be made, then—
- (a) so far as the assumptions relate to times on or after the day on which the direction is given, this Act shall have effect in relation to such times in accordance with those assumptions; and
  - (b) paragraph 6 below shall apply for giving effect to those assumptions in so far as they relate to earlier times.
- (5) A direction falling within sub-paragraph (3)(b) above may identify in relation to any times or period the [<sup>F1559</sup>person who] is to be assumed to have been, or to be, the representative member of the group at those times or for that period.
- (6) A direction under this Schedule may vary the effect of a previous direction under this Schedule.
- (7) The Commissioners may at any time, by notice in writing to the person to whom it was given, withdraw a direction under this Schedule.
- (8) The refusal or non-refusal by the Commissioners of an application [<sup>F1560</sup>such as is mentioned in section 43B] shall not prejudice the power of the Commissioners to give a direction under this Schedule requiring any case to be assumed to be what it would have been had the application not been refused or, as the case may be, had it been refused.

#### **Textual Amendments**

**F1556** Word in Sch. 9A para. 3(1)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(4\)\(a\)](#); S.I. 2019/1348, reg. 2

**F1557** Word in Sch. 9A para. 3(1)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(4\)\(a\)](#); S.I. 2019/1348, reg. 2

**F1558** Word in Sch. 9A para. 3(3) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(4\)\(b\)](#); S.I. 2019/1348, reg. 2



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**F1559** Words in Sch. 9A para. 3(5) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), Sch. 18 para. 14(4)(c); S.I. 2019/1348, reg. 2

**F1560** Words in Sch. 9A para. 3(8) substituted (27.7.1999) by 1999 c. 16, s. 16, Sch. 2 para. 5(3)

#### *Time limit on directions*

- 4 (1) A direction under this Schedule shall not be given more than six years after whichever is the later of—
- (a) the occurrence of the relevant event by reference to which it is given; and
  - (b) the time when the relevant entitlement arose.
- (2) A direction under this Schedule shall not be given by reference to a relevant event occurring on or before 28th November 1995.
- (3) Subject to sub-paragraphs (1) and (2) above, a direction under this Schedule—
- (a) may be given by reference to a relevant event occurring before the coming into force of this Schedule; and
  - (b) may require assumptions to be made in relation to times (including times before 29th November 1995) falling before the occurrence of the relevant event by reference to which the direction is given, or before the relevant entitlement arose.
- (4) For the purposes of this paragraph the reference, in relation to the giving of a direction, to the relevant entitlement is a reference to the entitlement by reference to which the requirements of paragraph 1(4) above are taken to be satisfied for the purposes of that direction.

#### *Manner of giving directions*

- 5 (1) A direction under this Schedule relating to a supply may be given to—
- (a) the person who made the supply to which the direction relates; or
  - (b) any [<sup>F1561</sup>person who], at the time when the direction is given, is the representative member of a group of which [<sup>F1562</sup>the person mentioned in paragraph (a)] was treated as being a member at the time of the supply.
- (2) A direction under this Schedule relating to a [<sup>F1563</sup>person (“the relevant person”)] may be given to [<sup>F1564</sup>that person or to any person who] at the time when the direction is given is, or in pursuance of the direction is to be treated as, the representative member of a group of which [<sup>F1565</sup>the relevant person]—
- (a) is treated as being a member;
  - (b) was treated as being a member at a time to which the direction relates; or
  - (c) is to be treated as being, or having been, a member at any such time.
- (3) A direction given to any person under this Schedule shall be given to him by notice in writing.
- (4) A direction under this Schedule must specify the relevant event by reference to which it is given.

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### Textual Amendments

- F1561** Words in Sch. 9A para. 5(1)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(5\)\(a\)\(i\)](#); [S.I. 2019/1348, reg. 2](#)
- F1562** Words in Sch. 9A para. 5(1)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(5\)\(a\)\(ii\)](#); [S.I. 2019/1348, reg. 2](#)
- F1563** Words in Sch. 9A para. 5(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(5\)\(b\)\(i\)](#); [S.I. 2019/1348, reg. 2](#)
- F1564** Words in Sch. 9A para. 5(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(5\)\(b\)\(ii\)](#); [S.I. 2019/1348, reg. 2](#)
- F1565** Words in Sch. 9A para. 5(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(5\)\(b\)\(iii\)](#); [S.I. 2019/1348, reg. 2](#)

### *Assessment in consequence of a direction*

- 6 (1) Subject to sub-paragraph (3) below, where—
- (a) a direction is given under this Schedule, and
  - (b) there is an amount of VAT (“the unpaid tax”) for which a relevant person would have been liable before the giving of the direction if the facts had accorded with the assumptions specified in the direction,
- the Commissioners may, to the best of their judgement, assess the amount of unpaid tax as tax due from the person to whom the direction was given or another relevant person and notify their assessment to that person.
- (2) In sub-paragraph (1) above the reference to an amount of VAT for which a person would, on particular assumptions, have been liable before the giving of a direction under this Schedule is a reference to the aggregate of the following—
- (a) any amount of output tax which, on those assumptions but not otherwise, would have been due from a relevant person at the end of a prescribed accounting period ending before the giving of the direction;
  - (b) the amount of any credit for input tax to which a relevant person is treated as having been entitled at the end of such an accounting period but to which he would not have been entitled on those assumptions; and
  - (c) the amount of any repayment of tax made to a relevant person in accordance with regulations under section 39 but to which he would not have been entitled on those assumptions.
- (3) Where any assessment falls to be made under this paragraph in a case in which the Commissioners are satisfied that the actual revenue loss is less than the unpaid tax, the total amount to be assessed under this paragraph shall not exceed what appears to them, to the best of their judgement, to be the amount of that loss.
- (4) For the purposes of the making of an assessment under this paragraph in relation to any direction, the actual revenue loss shall be taken to be equal to the amount of the unpaid tax less the amount given by aggregating the amounts of every entitlement—
- (a) to credit for input tax, or
  - (b) to a repayment in accordance with regulations under section 39,
- which (whether as an entitlement of the person in relation to whom the assessment is made or as an entitlement of any other person) would have arisen on the assumptions contained in the direction, but not otherwise.

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- (5) An assessment under this paragraph relating to a direction may be notified to the person to whom that direction is given by being incorporated in the same notice as that direction.
- (6) An assessment under this paragraph shall not be made—
- (a) more than one year after the day on which the direction to which it relates was given, or
  - (b) in the case of any direction that has been withdrawn.
- (7) Where an amount has been assessed on any person under this paragraph and notified to him—
- (a) that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him;
  - (b) that amount may be recovered accordingly, either from that person or, in the case of a [<sup>F1566</sup>person who] is for the time being treated as a member of a group, from the representative member of that group; and
  - (c) to the extent that more than one person is liable by virtue of any assessment under this paragraph in respect of the same amount of unpaid tax, those persons shall be treated as jointly and severally liable for that amount.
- (8) Sub-paragraph (7) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.
- (9) Sections 74 and 77(6) apply in relation to assessments under this paragraph as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.
- (10) Where by virtue of sub-paragraph (9) above any person is liable to interest under section 74—
- (a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to [<sup>F1567</sup>(5)]; and
  - (b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;
- and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) above may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.
- (11) In this paragraph “ a relevant person ”, in relation to a direction, means—
- (a) the person to whom the direction is given;
  - (b) the [<sup>F1568</sup>person who] was the representative member of any group of which [<sup>F1569</sup>the person mentioned in paragraph (a)] was treated as being, or in pursuance of the direction is to be treated as having been, a member at a time to which the assumption specified in the direction relates; or
  - (c) any [<sup>F1570</sup>person who], in pursuance of the direction, is to be treated as having been the representative member of such a group.

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#### Textual Amendments

- F1566** Words in Sch. 9A para. 6(7)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(6\)\(a\)](#); S.I. 2019/1348, reg. 2
- F1567** Word in Sch. 9A para. 6(10)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 96\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1568** Words in Sch. 9A para. 6(11)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(6\)\(b\)\(i\)](#); S.I. 2019/1348, reg. 2
- F1569** Words in Sch. 9A para. 6(11)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(6\)\(b\)\(ii\)](#); S.I. 2019/1348, reg. 2
- F1570** Words in Sch. 9A para. 6(11)(c) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(6\)\(c\)](#); S.I. 2019/1348, reg. 2

#### *Interpretation of Schedule etc.*

- 7 (1) References in this Schedule to being treated as a member of a group and to being eligible to be treated as a member of a group shall be construed in accordance with [<sup>F1571</sup>section 43 to 43C].
- (2) For the purposes of this Schedule the giving of any notice or notification to any receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as the giving of a notice or, as the case may be, notification to the person in relation to whom he so acts.]

#### Textual Amendments

- F1571** Words in Sch. 9A para. 7(1) substituted (27.7.1999) by [1999 c. 16, s. 16, Sch. 2 para. 5\(4\)](#)

[<sup>F1572</sup>SCHEDULE 10

Section 51

BUILDINGS AND LAND

#### Textual Amendments

- F1572** Sch. 10 substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\), arts. 1\(1\), 2](#) (with [Sch. 2](#))

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## PART 1

### THE OPTION TO TAX LAND

#### *Introduction*

#### *Overview of the option to tax*

1. (1) This Part of the Schedule makes provision for a person to opt to tax any land.
- (2) The effect of the option to tax is dealt with in paragraph 2 (exempt supplies become taxable), as read with paragraph 3.
- (3) Grants are excluded from the effect of paragraph 2 by—
  - (a) paragraph 5 (dwellings designed or adapted, and intended for use, as dwelling etc),
  - (b) paragraph 6 (conversion of buildings for use as dwelling etc),
  - (c) paragraph 7 (charities),
  - (d) paragraph 8 (residential caravans),
  - (e) paragraph 9 (residential houseboats),
  - (f) paragraph 10 (relevant housing associations), and
  - (g) paragraph 11 (grant to individual for construction of dwelling).
- (4) Paragraphs 12 to 17 (anti-avoidance: developers of land etc) provide for certain supplies to which any grant gives rise to be excluded from the effect of paragraph 2.
- (5) Paragraphs 18 to 30 deal with—
  - (a) the scope of the option to tax,
  - (b) the day from which the option to tax has effect,
  - (c) notification requirements,
  - (d) elections to opt to tax land subsequently acquired,
  - (e) the revocation of the option,
  - (f) the effect of the option to tax in relation to new buildings, and
  - (g) requirements for prior permission in the case of exempt grants made before the exercise of an option to tax.
- (6) Paragraphs 31 to 34 deal with definitions which apply for the purposes of this Part, as well as other supplemental matters.

#### *The option to tax*

#### *Effect of the option to tax: exempt supplies become taxable*

2. (1) This paragraph applies if—
  - (a) a person exercises the option to tax any land under this Part of this Schedule, and
  - (b) a grant is made in relation to the land at any time when the option to tax it has effect.
- (2) If the grant is made—
  - (a) by the person exercising that option, or

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- (b) by a relevant associate (if that person is a body corporate),  
the grant does not fall within Group 1 of Schedule 9 (exemptions for land).
- (3) For the meaning of “relevant associate”, see paragraph 3.

*Meaning of “relevant associate”*

3. (1) This paragraph explains for the purposes of this Part of this Schedule what is meant by a “relevant associate” in a case where a [F1573 person] (“the opter”) exercises an option to tax in relation to any building or land.
- (2) A [F1574 person] is a relevant associate of the opter if under sections 43A to 43D (groups of companies) the [F1574 person]—
  - (a) was treated as a member of the same group as the opter at the time when the option first had effect,
  - (b) has been so treated at any later time when the opter had a relevant interest in the building or land, or
  - (c) has been treated as a member of the same group as a [F1575 person] within paragraph (a) or (b) of this sub-paragraph at a time when [F1576 that person] had a relevant interest in the building or land.
- (3) But a [F1577 person (“P”)] ceases to be a relevant associate of the opter in relation to the building or land in the following circumstances.
- (4) [F1578 P] ceases to be a relevant associate of the opter in relation to the building or land at the time when all of the following conditions are first met—
  - (a) [F1579 P] has no relevant interest in the building or land [F1580],
  - (aa) where [F1581 P] has disposed of such an interest, it is not the case that a supply for the purposes of the charge to VAT in respect of the disposal—
    - (i) is yet to take place, or
    - (ii) would be yet to take place if one or more conditions (such as the happening of an event or the doing of an act) were to be met,]
  - (b) [F1582 P] or the opter is not treated under sections 43A to 43D as a member of the group mentioned above, and
  - (c) [F1583 P] is not connected with any person who has a relevant interest in the building or land where that person is the opter or another relevant associate of the opter.
- (5) [F1584 P] also ceases to be a relevant associate of the opter in relation to the building or land if [F1584 P]—
  - (a) meets conditions specified in a public notice (see paragraph 4), or
  - (b) gets the prior permission of the Commissioners (also, see that paragraph).

The time when [F1585 P] ceases to be a relevant associate of the opter is determined in accordance with that paragraph.
- (6) In this paragraph “relevant interest in the building or land” means an interest in, right over or licence to occupy the building or land (or any part of it).

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### Textual Amendments

- F1573** Word in Sch. 10 para. 3(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(a)**; S.I. 2019/1348, reg. 2
- F1574** Word in Sch. 10 para. 3(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(b)(i)**; S.I. 2019/1348, reg. 2
- F1575** Word in Sch. 10 para. 3(2)(c) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(b)(i)**; S.I. 2019/1348, reg. 2
- F1576** Words in Sch. 10 para. 3(2)(c) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(b)(ii)**; S.I. 2019/1348, reg. 2
- F1577** Words in Sch. 10 para. 3(3) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(c)**; S.I. 2019/1348, reg. 2
- F1578** Word in Sch. 10 para. 3(4) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(d)(i)**; S.I. 2019/1348, reg. 2
- F1579** Word in Sch. 10 para. 3(4)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(d)(ii)**; S.I. 2019/1348, reg. 2
- F1580** Words in Sch. 10 para. 3(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), 3
- F1581** Word in Sch. 10 para. 3(4)(aa) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(d)(ii)**; S.I. 2019/1348, reg. 2
- F1582** Word in Sch. 10 para. 3(4)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(d)(ii)**; S.I. 2019/1348, reg. 2
- F1583** Word in Sch. 10 para. 3(4)(c) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(d)(ii)**; S.I. 2019/1348, reg. 2
- F1584** Word in Sch. 10 para. 3(5) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(e)(i)**; S.I. 2019/1348, reg. 2
- F1585** Word in Sch. 10 para. 3(5) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\)](#), **Sch. 18 para. 15(2)(e)(ii)**; S.I. 2019/1348, reg. 2

*Permission for a body corporate to cease to be a relevant associate of the opter*

4. (1) This paragraph applies for the purposes of paragraph 3(5) in relation to a [<sup>F1586</sup>person (“P”) who] has been a relevant associate of the opter.
- (2) If the conditions specified in the public notice under paragraph 3(5)(a) are met in relation to [<sup>F1587</sup>P, P] ceases to be a relevant associate of the opter only if notification of those conditions being met is given to the Commissioners.
- (3) The notification must—
- be made in a form specified in a public notice,
  - state the day from which [<sup>F1588</sup>P] is to cease to be a relevant associate of the opter (which may not be before the day on which the notification is given),
  - contain a statement by [<sup>F1589</sup>P] certifying that, on that day, the conditions specified in the public notice under paragraph 3(5)(a) are met in relation to [<sup>F1590</sup>P], and
  - contain other information specified in a public notice.
- (4) An application for the prior permission of the Commissioners must—
- be made in a form specified in a public notice,

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- (b) contain a statement by [F1591P] certifying which (if any) of the conditions specified in the public notice under paragraph 3(5)(a) are met in relation to [F1592P], and
  - (c) contain other information specified in a public notice.
- (5) If [F1593P] gets the prior permission of the Commissioners, [F1594P] ceases to be a relevant associate of the opter from—
- (a) the day on which the Commissioners give their permission, or
  - (b) such earlier or later day as they specify in their permission.
- (6) The Commissioners may specify an earlier day only if—
- (a) [F1595P] has purported to give a notification of [F1596P's] ceasing to be a relevant associate of the opter,
  - (b) the conditions specified in the public notice are not, in the event, met in relation to [F1597P], and
  - (c) the Commissioners consider that the grounds on which those conditions are not so met are insignificant.
- (7) The day specified may be the day from which [F1598P] would have ceased to be a relevant associate of the opter if those conditions had been so met.
- (8) The Commissioners may specify conditions subject to which their permission is given and, if any of those conditions are broken, they may treat the application as if it had not been made.

#### Textual Amendments

- F1586** Words in Sch. 10 para. 4(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(a\)](#); S.I. 2019/1348, reg. 2
- F1587** Words in Sch. 10 para. 4(2) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(b\)](#); S.I. 2019/1348, reg. 2
- F1588** Word in Sch. 10 para. 4(3)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(c\)](#); S.I. 2019/1348, reg. 2
- F1589** Word in Sch. 10 para. 4(3)(c) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(d\)\(i\)](#); S.I. 2019/1348, reg. 2
- F1590** Word in Sch. 10 para. 4(3)(c) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(d\)\(ii\)](#); S.I. 2019/1348, reg. 2
- F1591** Word in Sch. 10 para. 4(4)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(e\)\(i\)](#); S.I. 2019/1348, reg. 2
- F1592** Word in Sch. 10 para. 4(4)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(e\)\(ii\)](#); S.I. 2019/1348, reg. 2
- F1593** Word in Sch. 10 para. 4(5) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(f\)\(i\)](#); S.I. 2019/1348, reg. 2
- F1594** Word in Sch. 10 para. 4(5) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(f\)\(ii\)](#); S.I. 2019/1348, reg. 2
- F1595** Word in Sch. 10 para. 4(6)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(g\)\(i\)](#); S.I. 2019/1348, reg. 2
- F1596** Word in Sch. 10 para. 4(6)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(g\)\(ii\)](#); S.I. 2019/1348, reg. 2
- F1597** Word in Sch. 10 para. 4(6)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(h\)](#); S.I. 2019/1348, reg. 2



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**F1598** Word in Sch. 10 para. 4(7) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(3\)\(i\)](#); [S.I. 2019/1348, reg. 2](#)

### *Exclusions from effect of option to tax*

#### *Dwellings designed or adapted, and intended for use, as dwelling etc*

5. (1) An option to tax has no effect in relation to any grant in relation to a building or part of a building if the building or part of the building is designed or adapted, and is intended, for use—
  - (a) as a dwelling or number of dwellings, or
  - (b) solely for a relevant residential purpose.
- (2) In relation to the expression “relevant residential purpose”, see the certification requirement imposed as a result of the application of Note (12) of Group 5 of Schedule 8 by paragraph 33 of this Schedule.

#### *Conversion of buildings for use as dwelling etc*

6. (1) An option to tax has no effect in relation to any grant made to a person (“the recipient”) in relation to a building or part of a building if the recipient certifies that the building or part of the building is intended for use—
  - (a) as a dwelling or number of dwellings, or
  - (b) solely for a relevant residential purpose.
- (2) The recipient must give the certificate to the person making the grant (“the seller”)—
  - (a) within the period specified in a public notice, or
  - (b) if the seller agrees, at any later time before the seller makes a supply to which the grant gives rise.
- (3) The recipient may give the certificate to the seller only if the recipient—
  - (a) intends to use the building or part of the building as mentioned above,
  - (b) has the relevant conversion intention, or
  - (c) is a relevant intermediary.
- (4) The recipient is a relevant intermediary if—
  - (a) the recipient intends to dispose of the relevant interest to another person, and
  - (b) that other person gives the recipient a certificate stating that the other person has the relevant conversion intention or the relevant disposal intention.
- (5) For this purpose a person has the relevant disposal intention if—
  - (a) the person intends to dispose of the relevant interest to a third person, and
  - (b) the third person gives a qualifying certificate to the person.
- (6) A person (P) gives a qualifying certificate to another if P gives a certificate to that other person stating that P has the relevant conversion intention or intends to dispose of the relevant interest to another person (Q) who has given a certificate to P stating—
  - (a) that Q has the relevant conversion intention, or
  - (b) that Q intends to dispose of the relevant interest to another person who has given a qualifying certificate to Q,and so on (in the case of further disposals of the relevant interest).

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- (7) In this paragraph—
- “the relevant conversion intention”, in relation to a person, means an intention of the person to convert the building or part of the building with a view to its being used as mentioned above, and
- “the relevant interest”, in relation to any interest in the building or part of the building to which the grant gives rise, means the whole of that interest.
- (8) For the purposes of this paragraph a building or part of a building is not to be regarded as intended for use as a dwelling or number of dwellings at any time if there is intended to be a period before that time during which it will not be so used (but disregarding use for incidental or other minor purposes).
- (9) For the purposes of this paragraph the reference to use solely for a relevant residential purpose is to be read without regard to Note (12) of Group 5 of Schedule 8 (which would otherwise apply as a result of paragraph 33 of this Schedule).
- (10) The Commissioners may publish a notice for the purposes of this paragraph—
- (a) preventing a person from giving any certificate under this paragraph unless the person meets conditions specified in the notice,
  - (b) specifying the form in which any certificate under this paragraph must be made, and
  - (c) specifying any information which any certificate under this paragraph must contain.

#### *Charities*

7. (1) An option to tax has no effect in relation to any grant made to a person in relation to a building or part of a building intended by the person for use—
- (a) solely for a relevant charitable purpose, but
  - (b) not as an office.
- (2) In relation to the expression “relevant charitable purpose”, see the certification requirement imposed as a result of the application of Note (12) of Group 5 of Schedule 8 by paragraph 33 of this Schedule.

#### *Residential caravans*

8. (1) An option to tax has no effect in relation to any grant made in relation to a pitch for a residential caravan.
- (2) A caravan is not a residential caravan if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.

#### *Residential houseboats*

9. (1) An option to tax has no effect in relation to any grant made in relation to facilities for the mooring of a residential houseboat.
- “Mooring” includes anchoring or berthing.
- (2) In this paragraph—
- (a) “houseboat” means a houseboat within the meaning of Group 9 of Schedule 8, and

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- (b) a houseboat is not a residential houseboat if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.

#### *Relevant housing associations*

10. (1) An option to tax has no effect in relation to any grant made to a relevant housing association in relation to any land if the association certifies that the land is to be used (after any necessary demolition work) for the construction of a building or buildings intended for use—
  - (a) as a dwelling or number of dwellings, or
  - (b) solely for a relevant residential purpose.
- (2) The association must give the certificate to the person making the grant (“the seller”)—
  - (a) within the period specified in a public notice, or
  - (b) if the seller agrees, at any later time before the seller makes a supply to which the grant gives rise.
- (3) In this paragraph “relevant housing association” means—
  - [<sup>F1599</sup>(za) a private registered provider of social housing,]
    - (a) a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (<sup>F1600</sup>... Welsh registered social landlords),
    - [<sup>F1601</sup>(b) a registered social landlord within the meaning of the [Housing \(Scotland\) Act 2010 \(asp 17\)](#) which is either—
      - (i) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12), or
      - (ii) a company within the meaning of the Companies Act 2006 (c.46),or]
    - (c) a registered housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992 (Northern Irish registered housing associations).
- (4) For the purposes of this paragraph the reference to use solely for a relevant residential purpose is to be read without regard to Note (12) of Group 5 of Schedule 8 (which would otherwise apply as a result of paragraph 33 of this Schedule).
- (5) The Commissioners may publish a notice for the purposes of this paragraph—
  - (a) specifying the form in which any certificate under this paragraph must be made, and
  - (b) specifying any information which any certificate under this paragraph must contain.

#### **Textual Amendments**

**F1599**Sch. 10 para. 10(3)(za) inserted (1.4.2010) by [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, **4(1)(a)**

**F1600**Words in Sch. 10 para. 10(3)(a) omitted (1.4.2010) by virtue of [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, **4(1)(b)**

**F1601**Sch. 10 para. 10(3)(b) substituted (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), **Sch. para. 5(3)**

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**Modifications etc. (not altering text)**

**C113** Sch. 10 para. 10(3) modified (temp.) (1.4.2010) by [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, **4(2)**

*Grant to individual for construction of dwelling*

11. An option to tax has no effect in relation to any grant made to an individual if—
- (a) the land is to be used for the construction of a building intended for use by the individual as a dwelling, and
  - (b) the construction is not carried out in the course or furtherance of a business carried on by the individual.

*Anti-avoidance*

*Developers of exempt land*

12. (1) A supply is not, as a result of an option to tax, a taxable supply if—
- (a) the grant giving rise to the supply was made by a person (“the grantor”) who was a developer of the land, and
  - (b) the exempt land test is met.
- (2) The exempt land test is met if, at the time when the grant was made (or treated for the purposes of this paragraph as made), the relevant person intended or expected that the land—
- (a) would become exempt land (whether immediately or eventually and whether or not as a result of the grant), or
  - (b) would continue, for a period at least, to be exempt land.
- (3) “The relevant person” means—
- (a) the grantor, or
  - (b) a development financier.
- (4) For the meaning of a development financier, see paragraph 14.
- (5) For the meaning of “exempt land”, see paragraphs 15 and 16.
- (6) If a supply is made by a person other than the person who made the grant giving rise to it—
- (a) the person making the supply is treated for the purposes of this paragraph as the person who made the grant giving rise to it, and
  - (b) the grant is treated for the purposes of this paragraph as made at the time when that person made the first supply arising from the grant.
- (7) For a special rule in the case of a grant made on or after 19th March 1997 and before 10th March 1999, see paragraph 17.
- (8) Nothing in this paragraph applies in relation to a supply arising from—
- (a) a grant made before 26th November 1996, or
  - (b) a grant made on or after that date but before 30th November 1999, in pursuance of a written agreement entered into before 26th November 1996, on terms which (as terms for which provision was made by that agreement) were fixed before 26th November 1996.

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*Meaning of grants made by a developer*

13. (1) This paragraph applies for the purposes of paragraph 12.
- (2) A grant made by any person (“the grantor”) in relation to any land is made by a developer of the land if—
- (a) the land is, or was intended or expected to be, a relevant capital item (see sub-paragraphs (3) to (5)), and
  - (b) the grant is made at an eligible time as respects that capital item (see sub-paragraph (6)).
- (3) The land is a relevant capital item if—
- (a) the land, or
  - (b) the building or part of a building on the land,
- is a capital item in relation to the grantor.
- (4) The land was intended or expected to be a relevant capital item if the grantor, or a development financier, intended or expected that—
- (a) the land, or
  - (b) a building or part of a building on, or to be constructed on, the land,
- would become a capital item in relation to the grantor or any relevant transferee.
- (5) A person is a relevant transferee if the person is someone to whom the land, building or part of a building was to be transferred—
- (a) in the course of a supply, or
  - (b) in the course of a transfer of a business or part of a business as a going concern.
- (6) A grant is made at an eligible time as respects a capital item if it is made before the end of the period provided in the relevant regulations for the making of adjustments relating to the deduction of input tax as respects the capital item.
- (7) But if—
- (a) a person other than the grantor is treated by paragraph 12(6) as making the grant of the land, and
  - (b) the grant is consequently treated as made at what would otherwise be an ineligible time,
- the grant is treated instead as if were not made at an ineligible time.
- (8) In this paragraph a “capital item”, in relation to any person, means an asset falling, in relation to the person, to be treated as a capital item for the purposes of the relevant regulations.
- (9) In this paragraph “the relevant regulations”, as respects any item, means regulations under section 26(3) and (4) providing for adjustments relating to the deduction of input tax to be made as respects that item.

*Meaning of “development financier”*

14. (1) This paragraph explains for the purposes of paragraphs 12 to 17 what is meant, in relation to the grantor of any land, by a development financier.
- (2) A “development financier” means a person who—
- (a) has provided finance for the grantor’s development of the land, or

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- (b) has entered into any arrangement to provide finance for the grantor's development of the land,  
with the intention or in the expectation that the land will become exempt land or continue (for a period at least) to be exempt land.
- (3) For the purposes of this paragraph references to finance being provided for the grantor's development of the land are to doing (directly or indirectly) any one or more of the following—
- (a) providing funds for meeting the whole or any part of the cost of the grantor's development of the land,
  - (b) procuring the provision of such funds by another,
  - (c) providing funds for discharging (in whole or in part) any liability that has been or may be incurred by any person for or in connection with the raising of funds to meet the cost of the grantor's development of the land, and
  - (d) procuring that any such liability is or will be discharged (in whole or in part) by another.
- (4) For the purposes of this paragraph references to providing funds for a particular purpose are to—
- (a) the making of a loan of funds that are or are to be used for that purpose,
  - (b) the provision of any guarantee or other security in relation to such a loan,
  - (c) the provision of any of the consideration for the issue of any shares or other securities issued wholly or partly for raising those funds,
  - (d) the provision of any consideration for the acquisition by any person of any shares or other securities issued wholly or partly for raising those funds, or
  - (e) any other transfer of assets or value as a consequence of which any of those funds are made available for that purpose.
- (5) For the purposes of this paragraph references to the grantor's development of the land are to the acquisition by the grantor of the asset which—
- (a) consists in the land or a building or part of a building on the land, and
  - (b) is, or (as the case may be) was intended or expected to be, a relevant capital item in relation to the grantor (within the meaning of paragraph 13).
- (6) For this purpose the reference to the acquisition of the asset includes—
- (a) its construction or reconstruction, and
  - (b) the carrying out in relation to it of any other works by reference to which it is, or was intended or expected to be, a relevant capital item (within the meaning of paragraph 13).
- (7) In this paragraph "arrangement" means any agreement, arrangement or understanding (whether or not legally enforceable).

*Meaning of "exempt land": basic definition*

15. (1) This paragraph explains for the purposes of paragraphs 12 to 17 what is meant by exempt land.
- (2) Land is exempt land if, at any time before the end of the relevant adjustment period as respects that land—
- (a) a relevant person is in occupation of the land, and
  - (b) that occupation is not wholly, or substantially wholly, for eligible purposes.

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- (3) Each of the following is a relevant person—
- (a) the grantor,
  - (b) a person connected with the grantor,
  - (c) a development financier, and
  - (d) a person connected with a development financier.

[<sup>F1602</sup>(3A) Where a person (“P”) is in occupation of the land at any time before the end of the relevant adjustment period as respects that land, P is treated for the purposes of sub-paragraph (2) as not in occupation of the land at that time if—

- (a) the building occupation conditions are met at that time, or
- (b) P’s occupation of the land arises solely by reference to any automatic teller machine of P.]

(4) The relevant adjustment period as respects any land is the period provided in the relevant regulations (within the meaning of paragraph 13) for the making of adjustments relating to the deduction of input tax as respects the land.

(5) For the purposes of this paragraph any question whether a person’s occupation of any land is “wholly, or substantially wholly,” for eligible purposes is to be decided by reference to criteria specified in a public notice.

#### Textual Amendments

**F1602**Sch. 10 para. 15(3A) substituted (with effect in accordance with art. 2 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, 5

#### **Meaning of “exempt land”: the building occupation conditions**

[<sup>F1603</sup>15(A) For the purposes of paragraph 15(3A), the building occupation conditions are met at any time (“the time in question”) if—

- (a) the grant consists of or includes the grant of a relevant interest in a building, and
- (b) P does not, at the time in question, occupy—
  - (i) any part of the land that is not a building, or
  - (ii) more than [<sup>F1604</sup>the maximum allowable percentage] of any relevant building.

(2) For the purposes of sub-paragraph (1)(b)(i) and (ii) occupation by a person connected with P is treated as occupation by P [<sup>F1605</sup>if that occupation is not wholly, or substantially wholly, for eligible purposes.]

(3) For the purposes of sub-paragraph (1)(b)(i) occupation by a person of—

- (a) land used for the parking of cars or other vehicles, or
- (b) land that is within the curtilage of a building,

is disregarded if the occupation is ancillary to the occupation by that person of a building.

[<sup>F1606</sup>(4) In sub-paragraph (1)(b)(ii)—

“the maximum allowable percentage” means—

- (a) 2% where P is the grantor or a person connected with the grantor, and

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- (b) 10% where P is a development financier or a person connected with a development financier (but not also the grantor or a person connected with the grantor), and  
“relevant building”—
  - (a) means a building any relevant interest in which is included in the grant, other than any part of such a building in which, immediately before the grant, neither the grantor nor any person connected with the grantor held a relevant interest, but
  - (b) does not include any building P’s occupation of which arises solely by reference to any automatic teller machine of P.]
- (5) The way in which occupation by a person of a building is measured for the purposes of sub-paragraph (1)(b)(ii) is to be determined in accordance with conditions specified in a public notice.
- (6) In this paragraph “relevant interest”, in relation to a building or part of a building, means any interest in, right over or licence to occupy the building or part.
- [ Sub-paragraph (5) of paragraph 15 (determination of whether occupation “wholly, or substantially wholly” for eligible purposes to be by reference to criteria in public notice) applies for the purposes of this paragraph.]
- (7) Sub-paragraphs (4) to (7) of paragraph 18 (meaning of “building”) apply for the purposes of this paragraph.]

#### Textual Amendments

- F1603**Sch. 10 para. 15A inserted (with effect in accordance with art. 2 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, **6**
- F1604**Words in Sch. 10 para. 15A(1)(b)(ii) substituted (with effect in accordance with art. 2 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, **6(a)**
- F1605**Words in Sch. 10 para. 15A(2) inserted (with effect in accordance with art. 2 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, **6(b)**
- F1606**Sch. 10 para. 15A(4) substituted (with effect in accordance with art. 2 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, **6(c)**
- F1607**Sch. 10 para. 15A(6A) inserted (with effect in accordance with art. 2 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, **6(d)**

#### Meaning of “exempt land”: eligible purposes

16. (1) This paragraph explains what is meant for the purposes of paragraph 15 by a person occupying land for eligible purposes.
- (2) A person cannot occupy land at any time for eligible purposes unless the person is a taxable person at that time (but this rule is qualified by sub-paragraphs (5) and (6)).
- (3) A taxable person occupies land for eligible purposes so far as the occupation is for the purpose of making creditable supplies (but this rule is qualified by sub-paragraphs (5) to (7)).
- (4) “Creditable supplies” means supplies which—
- (a) are or are to be made in the course or furtherance of a business carried on by the person, and



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- (b) are supplies of such a description that the person would be entitled to a credit for any input tax wholly attributable to those supplies.
- (5) Any occupation of land by a body to which section 33 applies (local authorities etc) is occupation of the land for eligible purposes so far as the occupation is for purposes other than those of a business carried on by the body.
- (6) Any occupation of land by a Government department (within the meaning of section 41) is occupation of the land for eligible purposes.
- <sup>F1608</sup>(7) .....
- (8) If a person occupying land—
  - (a) holds the land in order to put it to use for particular purposes, and
  - (b) does not occupy it for any other purpose,the person is treated for the purposes of this paragraph, for so long as the conditions in paragraphs (a) and (b) continue to be met, as occupying the land for the purposes for which the person proposes to use it.
- (9) If land is in the occupation of a person (“A”) who—
  - (a) is not a taxable person, but
  - (b) is a person whose supplies are treated for the purposes of this Act as made by another person (“B”) who is a taxable person,the land is treated for the purposes of this paragraph as if A and B were a single taxable person.
- (10) For the purposes of this paragraph a person occupies land—
  - (a) whether the person occupies it alone or together with one or more other persons, and
  - (b) whether the person occupies all of the land or only part of it.

**Textual Amendments**

**F1608**Sch. 10 para. 16(7) omitted (with effect in accordance with art. 2 of the amending S.I.) by virtue of [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, 7

*Paragraph 12: grants made on or after 19th March 1997 and before 10th March 1999*

- 17. (1) A grant in relation to land which was made—
  - (a) on or after 19th March 1997, and
  - (b) before 10th March 1999,is treated for the purposes of paragraph 12 as made on 10th March 1999 if, at the time of the grant, the capital item test was met.
- (2) The capital item test was met if the person making the grant, or a development financier, intended or expected that—
  - (a) the land, or
  - (b) a building or part of a building on, or to be constructed on, the land,would become a capital item in relation to the grantor or any relevant transferee but it had not become such an item.

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- (3) For the purposes of that test “capital item” and “relevant transferee” have the meaning given by paragraph 13.

*Scope of the option, its duration, notification etc*

*Scope of the option*

18. (1) An option to tax has effect in relation to the particular land specified in the option.
- (2) If an option to tax is exercised in relation to—
- (a) a building, or
  - (b) part of a building,
- the option has effect in relation to the whole of the building and all the land within its curtilage.
- (3) If an option to tax—
- (a) is exercised in relation to any land, but
  - (b) is not exercised by reference to a building or part of a building,
- the option is nonetheless taken to have effect in relation to any building which is (or is to be) constructed on the land (as well as in relation to land on which no building is constructed).
- (4) For the purposes of this paragraph—
- (a) buildings linked internally or by a covered walkway, and
  - (b) complexes consisting of a number of units grouped around a fully enclosed concourse,
- are treated as a single building.
- (5) But for those purposes—
- (a) buildings which are linked internally are not treated as a single building if the internal link is created after the buildings are completed, and
  - (b) buildings which are linked by a covered walkway are not treated as a single building if the walkway starts to be constructed after the buildings are completed.
- (6) In this paragraph a “building” includes—
- (a) an enlarged or extended building,
  - (b) an annexe to a building, and
  - (c) a planned building.
- (7) In this paragraph “covered walkway” does not include a covered walkway to which the general public has reasonable access.

*The day from which the option has effect*

19. (1) An option to tax has effect from—
- (a) the start of the day on which it is exercised, or
  - (b) the start of any later day specified in the option.
- (2) But if, when an option to tax is exercised, the person exercising the option intends to revoke it in accordance with paragraph 23 (revocation of option: the “cooling off”

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period), the option is treated for the purposes of this Act as if it had never been exercised.

- (3) An option to tax may be revoked in accordance with paragraph 22(2) or (3) and any of paragraphs 23 to 25, but not otherwise.
- (4) This paragraph needs to be read with—
  - (a) paragraph 20 (requirement to notify the option), and
  - (b) paragraph 29(3) (application for prior permission in the case of an exempt grant before the exercise of an option to tax).

*Requirement to notify the option*

20. (1) An option to tax has effect only if—
  - (a) notification of the option is given to the Commissioners within the allowed time, and
  - (b) that notification is given together with such information as the Commissioners may require.
- (2) Notification of an option is given within the allowed time if (and only if) it is given—
  - (a) before the end of the period of 30 days beginning with the day on which the option was exercised, or
  - (b) before the end of such longer period beginning with that day as the Commissioners may in any particular case allow.
- (3) The Commissioners may publish a notice for the purposes of this paragraph specifying—
  - (a) the form in which a notification under this paragraph must be made, and
  - (b) the information which a notification under this paragraph must contain.
- (4) Notification of an option to tax does not need to be given under this paragraph if the option is treated as exercised in accordance with paragraph 29(3).

*Real estate elections: elections to opt to tax land subsequently acquired*

21. (1) A person (E) may make an election (a “real estate election”) for this paragraph to have effect in relation to—
  - (a) relevant interests in any building or land which E acquires after the election is made, and
  - (b) relevant interests in any building or land which a [<sup>F1609</sup>person] acquires after the election is made at a time when [<sup>F1610</sup>the person] is a relevant group member.
- (2) If E makes a real estate election—
  - (a) E is treated for the purposes of this Part of this Schedule as if E had exercised an option to tax in relation to the building or land in which the relevant interest is acquired,
  - (b) that option is treated for those purposes as if it had been exercised on the day on which the acquisition was made and as if it had effect from the start of that day, and
  - (c) paragraph 20 does not apply in relation to that option, but this sub-paragraph is subject to sub-paragraphs (3) to (5).

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- (3) A person (P) is not to be treated as a result of this paragraph as exercising an option to tax in relation to any building or land where at any time—
- (a) P, or any [<sup>F1611</sup>person who] was a relevant group member at that time, exercises an option to tax in relation to the building (or part of the building) or land apart from this paragraph, and
  - (b) that option has effect from a time earlier than the time from which an option to tax exercised by P in relation to the building or land would otherwise have been treated as having effect as a result of this paragraph.
- (4) A person (P) is not to be treated as a result of this paragraph as exercising an option to tax in relation to any building or land in which a relevant interest is acquired (“the later interest”) if—
- (a) the person making the acquisition in question held another relevant interest in that building or land before P makes a real estate election, and
  - (b) the person making the acquisition in question continues to hold that other relevant interest at the time when the later interest is acquired.
- (5) A person is not to be treated as a result of this paragraph as exercising an option to tax in relation to any building or land if—
- (a) a relevant interest in the building or land is acquired as mentioned in subparagraph (1), and
  - (b) on the relevant assumptions the case would fall within paragraph 28 (pre-option exempt grants: requirement for prior permission before exercise of option to tax).
- (6) The relevant assumptions are that—
- (a) the effect of this paragraph is disregarded, and
  - (b) the day from which the person would want the option to tax to have effect for the purposes of paragraphs 28 or 29(3) is the day on which the relevant interest is acquired.
- (7) A real estate election has effect only if—
- (a) notification of the election is given to the Commissioners before the end of the period of 30 days beginning with the day on which it was made or such longer period as the Commissioners may in any particular case allow,
  - (b) the notification is made in a form specified in a public notice, and
  - (c) the notification contains information so specified.
- (8) The Commissioners may at any time require a person who has made a real estate election to give to the Commissioners information specified in a public notice before the end of—
- (a) the period of 30 days beginning with that time, or
  - (b) such longer period as the Commissioners may in any particular case allow.
- (9) If a person (P) does not comply with that requirement—
- (a) the Commissioners may revoke the election, and
  - (b) that revocation has effect in relation to relevant interests in any building or land acquired after the notified time by P or a [<sup>F1612</sup>person who] is a relevant group member at the time of acquisition.
- “The notified time” means the time specified in a notification given by the Commissioners to P (which may not be before the notification is given).

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- (10) A real estate election may not be revoked except in accordance with sub-paragraph (9).
- (11) If a real estate election made by a person (P) is revoked in accordance with that sub-paragraph, another real estate election may be made at any subsequent time by—
- (a) P, or
  - (b) any <sup>F1613</sup>person who] is a relevant group member at that subsequent time, but only with the prior permission of the Commissioners.
- (12) In this paragraph—
- “relevant group member”, in relation to any person <sup>F1614</sup>(“P”)] making a real estate election and any time, means a <sup>F1615</sup>person who] is treated under sections 43A to 43D as a member of the same group as <sup>F1616</sup>P] at that time, and
- “relevant interest”, in relation to any building or land, means any interest in, right over or licence to occupy the building or land (or any part of it).
- <sup>F1617</sup>(13) For the purposes of this paragraph, the time at which a relevant interest in any building or land is acquired is—
- (a) the time at which a supply is treated as taking place for the purposes of the charge to VAT in respect of the acquisition, or
  - (b) if there is more than one such time, the earliest of them.
- (14) For the purposes of sub-paragraph (13)(a), any order under section 5(3)(c) that would otherwise have the effect that the acquisition in question is to be treated as neither a supply of goods nor a supply of services is to be disregarded.]

#### Textual Amendments

- F1609** Word in Sch. 10 para. 21(1)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(a\)\(i\)](#); S.I. 2019/1348, reg. 2
- F1610** Words in Sch. 10 para. 21(1)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(a\)\(ii\)](#); S.I. 2019/1348, reg. 2
- F1611** Words in Sch. 10 para. 21(3)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(b\)](#); S.I. 2019/1348, reg. 2
- F1612** Words in Sch. 10 para. 21(9)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(c\)](#); S.I. 2019/1348, reg. 2
- F1613** Words in Sch. 10 para. 21(11)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(d\)](#); S.I. 2019/1348, reg. 2
- F1614** Word in Sch. 10 para. 21(12) inserted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(e\)\(i\)](#); S.I. 2019/1348, reg. 2
- F1615** Words in Sch. 10 para. 21(12) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(e\)\(ii\)](#); S.I. 2019/1348, reg. 2
- F1616** Word in Sch. 10 para. 21(12) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 15\(4\)\(e\)\(iii\)](#); S.I. 2019/1348, reg. 2
- F1617** Sch. 10 para. 21(13)(14) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\), arts. 1\(1\), 4](#)

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*Real estate elections: supplementary*

22. (1) This paragraph applies if, at any time (“the relevant time”), a person (E) makes a real estate election under paragraph 21.
- (2) An option to tax exercised in relation to any building or part of any building before the relevant time by—
- (a) E, or
  - (b) any relevant group member,
- is treated for the purposes of this Part of this Schedule as if it had been revoked from the relevant time if, at that time, neither E nor any relevant group member has a relevant interest in that building.
- (3) An option to tax exercised in relation to any land (otherwise than by reference to any building or part of a building) before the relevant time by—
- (a) E, or
  - (b) any relevant group member,
- is treated for the purposes of this Part of this Schedule as if it had been revoked in accordance with sub-paragraph (4) from the relevant time if, at that time, neither E nor any relevant group member has a relevant interest in that land, or E or any relevant group member has a relevant interest in only some of it.
- (4) The option is treated for the purposes of this Part of this Schedule as if it had been revoked in relation to—
- (a) that land, or
  - (b) the parts of that land in which neither E nor any relevant group member has a relevant interest at the relevant time,
- as the case may be.
- (5) Sub-paragraphs (2) and (3) are subject to paragraph 26 (anti-avoidance).
- (6) An option to tax (“the original option”) exercised in relation to any land (otherwise than by reference to any building or part of a building) before the relevant time by—
- (a) E, or
  - (b) any relevant group member,
- may, in circumstances specified in a public notice, be converted by E into separate options to tax if, at the relevant time, E or any relevant group member has a relevant interest in the land or any part of it.
- (7) The original option is converted into separate options to tax different parcels of land comprised in that land or part.
- (8) Those separate options to tax are treated for the purposes of this Part of this Schedule—
- (a) as if they had been exercised by E, and
  - (b) as if they had effect from the time from which the original option had effect.
- (9) But—
- (a) those separate options to tax are treated for the purposes of paragraph 3(2) as if they had effect from the relevant time, and
  - (b) paragraph 23 (revocation of an option: the “cooling off” period) does not apply to those separate options to tax.

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- (10) The notification of the election given by E must identify—
  - (a) the separate options to tax treated as exercised by E as a result of sub-paragraphs (6) to (8), and
  - (b) the different parcels of land in relation to which those separate options to tax are treated as having effect.
- (11) In this paragraph—
  - (a) any reference to any relevant group member is to a body corporate which is a relevant group member at the relevant time, and
  - (b) any reference to any relevant group member, in relation to any relevant interest in any building or land (or any part of it), is to any relevant group member regardless of whether it has exercised an option to tax the building or land (or any part of it).
- (12) In this paragraph “relevant group member” and “relevant interest”, have the meaning given by paragraph 21.
- (13) In this paragraph any reference to a real estate election under paragraph 21 does not include an election which is made under sub-paragraph (11) of that paragraph.

*Revocation of option: the “cooling off” period*

23. (1) An option to tax any land exercised by any person (“the taxpayer”) may be revoked with effect from the day on which it was exercised if—
- (a) the time that has lapsed since the day on which the option had effect is less than 6 months,
  - <sup>F1618</sup>(b) .....
  - (c) no tax has become chargeable as a result of the option,
  - (d) there is no relevant transfer of a business as a going concern (see sub-paragraph (2)), and
  - (e) notification of the revocation is given to the Commissioners (see sub-paragraph (3)).
- (2) There is no relevant transfer of a business as a going concern if, since the option had effect, no grant in relation to the land has been made which is treated as neither a supply of goods nor a supply of services because—
- (a) the supply is a supply of the assets of a business by the taxpayer to a person to whom the business (or part of it) is transferred as a going concern, or
  - (b) the supply is a supply of assets of a business by a person to the taxpayer to whom the business (or part of it) is so transferred.
- (3) The notification of the revocation must—
- (a) be made in a form specified in a public notice, and
  - (b) contain information so specified.
- (4) The Commissioners may publish a notice for the purposes of this paragraph providing that a revocation under this paragraph is effective only if—
- (a) the conditions specified in the notice are met in relation to the option, or
  - (b) the taxpayer gets the prior permission of the Commissioners on an application made to them before the end of the 6 month period mentioned above.

*Status: Point in time view as at 26/07/2021.*

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- (5) A notice under sub-paragraph (4) may—
- (a) provide that, in a case falling with paragraph (a) of that sub-paragraph, the taxpayer must certify that the conditions specified under that paragraph are met in relation to the option,
  - (b) specify the form in which an application under paragraph (b) of that sub-paragraph must be made,
  - (c) provide that an application under that paragraph must contain a statement by the taxpayer certifying which (if any) of the conditions specified under sub-paragraph (4)(a) are met in relation to the option,
  - (d) specify other information which an application under sub-paragraph (4)(a) must contain, and
  - (e) provide that the Commissioners may specify conditions subject to which their permission is given and, if any of those conditions are broken, the Commissioners may treat the revocation as if it had not been made.

#### Textual Amendments

**F1618**Sch. 10 para. 23(1)(b) omitted (1.4.2010) by virtue of [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, 7

#### *Revocation of option: lapse of 6 years since having a relevant interest*

24. (1) An option to tax exercised by any person in relation to any building or land is treated for the purposes of this Part of this Schedule as revoked if the person does not have a relevant interest in the building or land throughout any continuous period of 6 years beginning at any time after the option has effect.
- (2) The option to tax is treated for the purposes of this Part of this Schedule as revoked from the end of that period.
- (3) In this paragraph “a relevant interest in the building or land” means an interest in, right over or licence to occupy the building or land (or any part of it).
- (4) This paragraph is subject to paragraph 26 (anti-avoidance).

#### *Revocation of option: lapse of more than 20 years since option had effect*

25. (1) An option to tax any land exercised by any person (“the taxpayer”) may be revoked if the time that has lapsed since the day on which the option had effect is more than 20 years and—
- (a) at the time when the option is to be revoked the conditions specified in a public notice are met in relation to the option (in which case, see sub-paragraphs (2) to (4)), or
  - (b) the taxpayer gets the prior permission of the Commissioners (in which case, see the remaining sub-paragraphs).
- (2) If the conditions specified in the public notice are met in relation to the option, the revocation has effect only if notification of the revocation is given to the Commissioners.
- (3) The notification must—
- (a) be made in the specified form,



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- (b) state the day from which the option is to be revoked (which may not be before the day on which the notification is given),
  - (c) contain a statement by the taxpayer certifying that, on that day, the conditions specified in the public notice are met in relation to the option, and
  - (d) contain other information specified in a public notice.
- (4) If—
- (a) notification of the revocation of an option is given to the Commissioners on the basis that the conditions specified in the public notice were met in relation to the option, but
  - (b) it is subsequently discovered that those conditions were not met in relation to the option,
- the Commissioners may nonetheless treat the option as if it had been validly revoked in accordance with this paragraph.
- (5) An application for the prior permission of the Commissioners must—
- (a) be made in a form specified in a public notice,
  - (b) contain a statement by the taxpayer certifying which (if any) of the conditions specified in the public notice under sub-paragraph (1)(a) are met in relation to the option, and
  - (c) contain other information specified in a public notice.
- (6) If the taxpayer gets the prior permission of the Commissioners for the revocation of an option, the option is revoked from—
- (a) the day on which the Commissioners give their permission, or
  - (b) such earlier or later day [<sup>F1619</sup>or time as they may] specify in their permission.
- (7) The Commissioners may specify an earlier day [<sup>F1620</sup>or time] only if—
- (a) the taxpayer has purported to give a notification of the revocation of the option,
  - (b) the conditions specified in the public notice are not, in the event, met in relation to the option, and
  - (c) the Commissioners consider that the grounds on which those conditions are not so met are insignificant.
- <sup>F1621</sup>(8) The Commissioners may specify a day or time under sub-paragraph (6)(b) by reference to the happening of an event or the meeting of a condition.]
- (9) The Commissioners may specify conditions subject to which their permission is given and, if any of those conditions are broken, they may treat the revocation as if it had not been made.

#### Textual Amendments

**F1619** Words in Sch. 10 para. 25(6)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), **5(2)**

**F1620** Words in Sch. 10 para. 25(7) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), **5(3)**

**F1621** Sch. 10 para. 25(8) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), **5(4)**

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*Revocation of option under paragraph 22(2) or (3) or 24: anti-avoidance*

[<sup>F1622</sup>22(1) Sub-paragraphs (2) and (3) of paragraph 22 (revocation of option to tax where a real estate election is made) do not apply if condition A or B is met.

(2) Paragraph 24 (lapse of option to tax) does not apply if condition A, B or C is met.

(3) Condition A is that—

- (a) the opter, or a relevant associate of the opter, disposes of a relevant interest in the building or land before the relevant time, and
- (b) at the relevant time, a supply for the purposes of the charge to VAT in respect of the disposal—
  - (i) is yet to take place, or
  - (ii) would be yet to take place if one or more conditions (such as the happening of an event or the doing of an act) were to be met.

(4) Condition B is that—

- (a) the opter is a body corporate that was, at any time before the relevant time, treated under sections 43A to 43D as a member of a group (“the group”), and
- (b) before the relevant time, a relevant associate of the opter in relation to the building or land ceased to be treated under those sections as a member of the group without at the same time meeting the conditions in sub-paragraph (5).

(5) A person (“A”) meets the conditions in this sub-paragraph if—

- (a) A has no relevant interest in the building or land,
- (b) where A has disposed of such an interest, it is not the case that a supply for the purposes of the charge to VAT in respect of the disposal—
  - (i) is yet to take place, or
  - (ii) would be yet to take place if one or more conditions (such as the happening of an event or the doing of an act) were to be met, and
- (c) A is not connected with any person who has a relevant interest in the building or land where that person is the opter or another relevant associate of the opter.

(6) Condition C is that the opter is a body corporate and, at the relevant time, a relevant associate of the opter in relation to the building or land—

- (a) is treated under sections 43A to 43D as a member of the same group as the opter, and
- (b) holds a relevant interest in the building or land or has held such an interest at any time within the previous 6 years.

(7) In this paragraph—

“relevant interest in the building or land” means an interest in, right over or license to occupy the building or land (or any part of it);

“the relevant time”, in relation to any option to tax, means the time from which the option would (but for this paragraph) have been treated as revoked as a result of paragraph 22(2) or (3) or 24;

“opter” means the person who exercised the option to tax in question.]

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### Textual Amendments

**F1622**Sch. 10 para. 26 substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), 6

### *Exclusion of new building from effect of an option*

27. (1) This paragraph applies if—
- (a) a person (“the taxpayer”) has at any time opted to tax any land,
  - (b) at any subsequent time the construction of a building (“the new building”) on the land begins, and
  - (c) no land within the curtilage of the new building is within the curtilage of an existing building.
- (2) The taxpayer may exclude—
- (a) the whole of the new building, and
  - (b) all the land within its curtilage,
- from the effect of the option if notification of that exclusion is given to the Commissioners.
- (3) The exclusion has effect from the earliest of the following times—
- (a) the time when a grant of an interest in, or in any part of, the new building is first made,
  - (b) the time when the new building, or any part of it, is first used,
  - (c) the time when the new building is completed.
- (4) The notification of the exclusion must—
- <sup>F1623</sup>(za) be given before the end of the period of 30 days beginning with the day on which it is to have effect or such longer period as the Commissioners may in any case allow,
  - (a) be made in a form specified in a public notice,
  - <sup>F1624</sup>(b) state the time from which it is to have effect, and
  - (c) contain other information so specified.
- (5) Sub-paragraphs (4) to (6) of paragraph 18 (meaning of “building”) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- (6) For the purposes of this paragraph the reference to the construction of a building is to be read without regard to Note (17) or (18)(b) of Group 5 of Schedule 8 (which would otherwise apply as a result of paragraph 33 of this Schedule).
- (7) The Commissioners may publish a notice for determining the time at which the construction of a building on any land is to be taken to begin for the purposes of this paragraph.

### Textual Amendments

**F1623**Sch. 10 para. 27(4)(za) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), 7(2)

*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F1624**Sch. 10 para. 27(4)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), **7(3)**

*Pre-option exempt grants: requirement for prior permission before exercise of option to tax*

28. (1) This paragraph applies if—
- (a) a person wants to exercise an option to tax any land with effect from a particular day,
  - (b) at any time (“the relevant time”) before that day the person has made, makes or intends to make an exempt supply to which any grant in relation to the land gives rise, and
  - (c) the relevant time is within the period of 10 years ending with that day.
- (2) The person may exercise the option to tax the land only if—
- (a) the conditions specified in a public notice are met in relation to the land, or
  - (b) the person gets the prior permission of the Commissioners (but see also paragraph 30).
- (3) The Commissioners must refuse their permission if they are not satisfied that there would be a fair and reasonable attribution of relevant input tax to relevant supplies.
- (4) For this purpose—
- “relevant input tax” means input tax incurred, or likely to be incurred, in relation to the land, and
- “relevant supplies” means supplies to which any grant in relation to the land gives rise which would be taxable (if the option has effect).
- (5) In deciding whether there would be a fair and reasonable attribution of relevant input tax to relevant supplies, the Commissioners must have regard to all the circumstances of the case.
- (6) But they must have regard in particular to—
- (a) the total value of any exempt supply to which any grant in relation to the land gives rise and which is made or to be made before the day from which the person wants the option to have effect,
  - (b) the expected total value of any supply to which any grant in relation to the land gives rise that would be taxable (if the option has effect), and
  - (c) the total amount of input tax incurred, or likely to be incurred, in relation to the land.

*Paragraph 28: application for prior permission*

29. (1) An application for the prior permission of the Commissioners under paragraph 28 must—
- (a) be made in a form specified in a public notice,
  - (b) contain a statement by the applicant certifying which (if any) of the conditions specified in the public notice under paragraph 28(2)(a) are met in relation to the land, and
  - (c) contain other information specified in a public notice.

*Status: Point in time view as at 26/07/2021.*

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- (2) The Commissioners may specify conditions subject to which their permission is given and, if any of those conditions are broken, they may treat the application as if it had not been made.
- (3) If the applicant (A) gets the prior permission of the Commissioners, A is, as a result of this sub-paragraph, treated for the purposes of this Part of this Schedule as if A had exercised the option to tax the land with effect from—
  - (a) the start of the day on which the application was made, or
  - (b) the start of any later day specified in the application.

*Paragraph 28: purported exercise where prior permission not obtained*

30. (1) This paragraph applies if—
  - (a) an option to tax was purportedly exercised in a case where, before the option could be exercised, the prior permission of the Commissioners was required under paragraph 28, and
  - (b) notification of the purported option was purportedly given to the Commissioners in accordance with paragraph 20.
- (2) The Commissioners may, in the case of any such option, subsequently dispense with the requirement for their prior permission to be given under paragraph 28.
- (3) If the Commissioners dispense with that requirement, a purported option—
  - (a) is treated for the purposes of this Part of this Schedule as if it had instead been validly exercised, and
  - (b) has effect in accordance with paragraph 19.

*Supplementary provisions*

*Timing of grant and supplies*

31. (1) This paragraph applies if—
  - (a) an option to tax is exercised in relation to any land,
  - (b) a grant in relation to the land would otherwise be taken to have been made (whether in whole or in part) before the time when the option has effect, and
  - (c) the grant gives rise to supplies which are treated for the purposes of this Act as taking place after that time.
- (2) For the purposes of this Part of this Schedule, the option to tax has effect, in relation to those supplies, as if the grant had been made after that time.

*Supplies in relation to a building where part designed or intended for residential or charitable use and part designed or intended for other uses*

32. Note (10) of Group 5 of Schedule 8 applies for the purposes of this Part of this Schedule.

*Definitions in Schedules 8 or 9 that are applied for the purposes of this Schedule*

33. In this Part of this Schedule, references to the expressions listed in the first column are to be read in accordance with the provisions listed in the second column—

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<i>Expression</i>	<i>Provision</i>
building designed or adapted for use as a dwelling or a number of dwellings	Note (2) to Group 5 of Schedule 8
completion of a building	Note (2) to Group 1 of Schedule 9
construction of a building	Notes (16) to (18) to Group 5 of Schedule 8 (but see paragraph 27(6) of this Schedule)
construction of a building intended for use as a dwelling or a number of dwellings	Note (3) to Group 5 of Schedule 8
grant	Note (1) to Group 5 of Schedule 8/ Notes (1) and (1A) to Group 1 of Schedule 9
use for a relevant charitable purpose	Notes (6) and (12) to Group 5 of Schedule 8
use for a relevant residential purpose	Notes (4), (5) and (12) to Group 5 of Schedule 8 (but see paragraphs 6(9) and 10(4) of this Schedule)

*Other definitions etc*

34. (1) In this Part of this Schedule—  
“notification” means written notification, and  
“permission” means written permission.
- (2) For the purposes of this Part of this Schedule any question whether a person is connected with another person is to be decided in accordance with [F1625 section 1122 of the Corporation Tax Act 2010][F1626]; but this is subject to sub-paragraph (2A)].
- [F1627(2A) For the purposes of this Part of this Schedule, a company is not connected with another company only because both are under the control of—  
(a) the Crown,  
(b) a Minister of the Crown,  
(c) a government department, or  
(d) a Northern Ireland department.
- (2B) In sub-paragraph (2A) “company” and “control” have the same meaning as in section 839 of the Taxes Act.]
- (3) Any reference in any provision of this Part of this Schedule to a public notice is to a notice published by the Commissioners for the purposes of that provision.

**Textual Amendments**

**F1625** Words in Sch. 10 para. 34(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 285(f)* (with Sch. 2)

**F1626** Words in Sch. 10 para. 34(2) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by *The Value Added Tax (Buildings and Land) Order 2009 (S.I. 2009/1966), arts. 1(1), 8(2)*

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**F1627**Sch. 10 para. 34(2A)(2B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2009 \(S.I. 2009/1966\)](#), arts. 1(1), **8(3)**

## PART 2

### RESIDENTIAL AND CHARITABLE BUILDINGS: CHANGE OF USE ETC

#### *Introductory*

**[<sup>F1628</sup>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, 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 **[<sup>F1629</sup>person]** treated as a member of a group under sections 43A to 43D, any reference in this Part of this Schedule to P includes a reference to any member of that group.]

#### **Textual Amendments**

**F1628**Sch. 10 paras. 35-37 substituted (with effect in accordance with art. 3 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, **8**

**F1629**Word in Sch. 10 para. 35(3) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\)](#), s. 53(2), **Sch. 18 para. 15(5)**; S.I. 2019/1348, reg. 2

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

**[<sup>F1628</sup>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 sub-paragraph (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 sub-paragraph 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 sub-paragraph if—

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- (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.]

#### Textual Amendments

**F1628**Sch. 10 paras. 35-37 substituted (with effect in accordance with art. 3 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, 8

#### Charge to VAT

- [<sup>F1628</sup>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—



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

- (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.]

#### Textual Amendments

**F1628**Sch. 10 paras. 35-37 substituted (with effect in accordance with art. 3 of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2011 \(S.I. 2011/86\)](#), arts. 1, 8

*Supplies in relation to a building where part designed for residential or charitable use and part designed for other uses*

38. Note (10) of Group 5 of Schedule 8 applies for the purposes of this Part of this Schedule.

#### Definitions

39. In this Part of this Schedule, references to the expressions listed in the first column are to be read in accordance with the provisions listed in the second column—

<i>Expression</i>	<i>Provision</i>
completion of a building	Note (2) to Group 1 of Schedule 9
grant	Note (1) to Group 5 of Schedule 8/ Notes (1) and (1A) to Group 1 of Schedule 9
use for a relevant charitable purpose	Notes (6) and (12) to Group 5 of Schedule 8
use for a relevant residential purpose	Notes (4), (5) and (12) to Group 5 of Schedule 8

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### PART 3

#### GENERAL

*Benefit of consideration for grant accruing to a person other than the grantor*

40. (1) This paragraph applies if the benefit of the consideration for the grant of an interest in, right over or licence to occupy land accrues to a person (“the beneficiary”) other than the person making the grant.
- (2) The beneficiary is to be treated for the purposes of this Act as the person making the grant.
- (3) So far as any input tax of the person actually making the grant is attributable to the grant, it is to be treated for the purposes of this Act as input tax of the beneficiary.]

#### [<sup>F1630</sup>SCHEDULE 10A

#### FACE-VALUE VOUCHERS [<sup>F1631</sup>ISSUED BEFORE 1 JANUARY 2019]

##### **Textual Amendments**

**F1630**Sch. 10A inserted (with application in accordance with Sch. 1 para. 4 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 1 para. 2](#)

**F1631**Words in Sch. 10A heading inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 17 para. 4](#)

##### *Meaning of “face-value voucher” etc*

- 1 (1) In this Schedule “face-value voucher” means a token, stamp or voucher (whether in physical or electronic form) that represents a right to receive goods or services to the value of an amount stated on it or recorded in it.
- (2) References in this Schedule to the “face value” of a voucher are to the amount referred to in sub-paragraph (1) above.

##### *Nature of supply*

- 2 The issue of a face-value voucher, or any subsequent supply of it, is a supply of services for the purposes of this Act.

##### *Treatment of credit vouchers*

- 3 (1) This paragraph applies to a face-value voucher issued by a person who—
- (a) is not a person from whom goods or services may be obtained by the use of the voucher, and
- (b) undertakes to give complete or partial reimbursement to any such person from whom goods or services are so obtained.
- Such a voucher is referred to in this Schedule as a “credit voucher”.

*Status: Point in time view as at 26/07/2021.*

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- (2) The consideration for any supply of a credit voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.
- (3) Sub-paragraph (2) above does not apply if any of the persons from whom goods or services are obtained by the use of the voucher fails to account for any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.

[ The Treasury may by order specify other circumstances in which sub-paragraph (2)  
<sup>F1632</sup>(4) above does not apply.]

#### Textual Amendments

**F1632**Sch. 10A para. 3(4) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 22\(3\)](#)

#### *Treatment of retailer vouchers*

- 4 (1) This paragraph applies to a face-value voucher issued by a person who—
  - (a) is a person from whom goods or services may be obtained by the use of the voucher, and
  - (b) if there are other such persons, undertakes to give complete or partial reimbursement to those from whom goods or services are so obtained.Such a voucher is referred to in this Schedule as a “retailer voucher”.
- (2) The consideration for the issue of a retailer voucher shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the voucher.
- (3) Sub-paragraph (2) above does not apply if—
  - (a) the voucher is used to obtain goods or services from a person other than the issuer, and
  - (b) that person fails to account for any of the VAT due on the supply of those goods or services to the person using the voucher to obtain them.
- (4) Any supply of a retailer voucher subsequent to the issue of it shall be treated in the same way as the supply of a voucher to which paragraph 6 below applies.

#### *Treatment of postage stamps*

- 5 The consideration for the supply of a face-value voucher that is a postage stamp shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds the face value of the stamp.

#### *Treatment of other kinds of face-value voucher*

- 6 (1) This paragraph applies to a face-value voucher that is not a credit voucher, a retailer voucher or a postage stamp.
- (2) A supply of such a voucher is chargeable at the rate in force under section 2(1) (standard rate) except where sub-paragraph (3), (4) or (5) below applies.

*Status: Point in time view as at 26/07/2021.*

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- (3) Where the voucher is one that can only be used to obtain goods or services in one particular non-standard rate category, the supply of the voucher falls in that category.
- (4) Where the voucher is used to obtain goods or services all of which fall in one particular non-standard rate category, the supply of the voucher falls in that category.
- (5) Where the voucher is used to obtain goods or services in a number of different rate categories—
  - (a) the supply of the voucher shall be treated as that many different supplies, each falling in the category in question, and
  - (b) the value of each of those supplies shall be determined on a just and reasonable basis.

*Vouchers supplied free with other goods or services*

- 7 Where—
- (a) a face-value voucher (other than a postage stamp) and other goods or services are supplied to the same person in a composite transaction, and
  - (b) the total consideration for the supplies is no different, or not significantly different, from what it would be if the voucher were not supplied,
- the supply of the voucher shall be treated as being made for no consideration.

*[<sup>F1633</sup>Exclusion of single purpose vouchers*

**Textual Amendments**

**F1633**Sch. 10A para. 7A and cross-heading inserted (with effect in accordance with s. 201(2) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 201\(1\)](#)

- 7A Paragraphs 2 to 4, 6 and 7 do not apply in relation to the issue, or any subsequent supply, of a face-value voucher that represents a right to receive goods or services of one type which are subject to a single rate of VAT.]

*Interpretation*

- 8 (1) In this Schedule—
- “credit voucher” has the meaning given by paragraph 3(1) above;
  - “face value” has the meaning given by paragraph 1(2) above;
  - “face value voucher” has the meaning given by paragraph 1(1) above;
  - “retailer voucher” has the meaning given by paragraph 4(1) above.
- (2) For the purposes of this Schedule—
- (a) the “rate categories” of supplies are—
    - (i) supplies chargeable at the rate in force under section 2(1) (standard rate),
    - (ii) supplies chargeable at the rate in force under section 29A (reduced rate),
    - (iii) zero-rated supplies, and
    - (iv) exempt supplies and other supplies that are not taxable supplies;

*Status: Point in time view as at 26/07/2021.*

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- (b) the “non-standard rate categories” of supplies are those in sub-paragraphs (ii), (iii) and (iv) of paragraph (a) above;
  - (c) goods or services are in a particular rate category if a supply of those goods or services falls in that category.
- (3) A reference in this Schedule to a voucher being used to obtain goods or services includes a reference to the case where it is used as part-payment for those goods or services.]

<sup>F1634</sup>SCHEDULE 10B

Section 51C

VAT TREATMENT OF VOUCHERS ISSUED ON OR AFTER 1 JANUARY 2019

**Textual Amendments**

**F1634**Sch. 10B inserted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 17 para. 5](#)

*Meaning of “voucher”*

- 1
- (1) In this Schedule “voucher” means an instrument (in physical or electronic form) in relation to which the following conditions are met.
  - (2) The first condition is that one or more persons are under an obligation to accept the instrument as consideration for the provision of goods or services.
  - (3) The second condition is that either or both of—
    - (a) the goods and services for the provision of which the instrument may be accepted as consideration, and
    - (b) the persons who are under the obligation to accept the instrument as consideration for the provision of goods or services,are limited and are stated on or recorded in the instrument or the terms and conditions governing the use of the instrument.
  - (4) The third condition is that the instrument is transferable by gift (whether or not it is transferable for consideration).
  - (5) The following are not vouchers—
    - (a) an instrument entitling a person to a reduction in the consideration for the provision of goods or services;
    - (b) an instrument functioning as a ticket, for example for travel or for admission to a venue or event;
    - (c) postage stamps.

*Meaning of related expressions*

- 2
- (1) This paragraph gives the meaning of other expressions used in this Schedule.
  - (2) “Relevant goods or services”, in relation to a voucher, are any goods or services for the provision of which the voucher may be accepted as consideration.

*Status: Point in time view as at 26/07/2021.*

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- (3) References in this Schedule to the transfer of a voucher do not include the voucher being offered and accepted as consideration for the provision of relevant goods or services.
- (4) References in this Schedule to a voucher being offered or accepted as consideration for the provision of relevant goods or services include references to the voucher being offered or accepted as part consideration for the provision of relevant goods or services.

*VAT treatment of vouchers: general rule*

- 3 (1) The issue, and any subsequent transfer, of a voucher is to be treated for the purposes of this Act as a supply of relevant goods or services.
- (2) References in this Schedule to the “paragraph 3 supply”, in relation to the issue or transfer of a voucher, are to the supply of relevant goods or services treated by this paragraph as having been made on the issue or transfer of the voucher.

*Single purpose vouchers: special rules*

- 4 (1) A voucher is a single purpose voucher if, at the time it is issued, the following are known—
  - (a) the place of supply of the relevant goods or services, and
  - (b) that any supply of relevant goods or services falls into a single supply category (and what that supply category is).
- (2) The supply categories are—
  - (a) supplies chargeable at the rate in force under section 2(1) (standard rate),
  - (b) supplies chargeable at the rate in force under section 29A (reduced rate),
  - (c) zero-rated supplies, and
  - (d) exempt supplies and other supplies that are not taxable supplies.
- (3) For the purposes of this paragraph, assume that the supply of relevant goods or services is the provision of relevant goods or services for which the voucher may be accepted as consideration (rather than the supply of relevant goods or services treated as made on the issue or transfer of the voucher).
- 5 (1) This paragraph applies where a single purpose voucher is accepted as consideration for the provision of relevant goods or services.
- (2) The provision of the relevant goods or services is not a supply of goods or services for the purposes of this Act.
- (3) But where the person who provides the relevant goods or services (the “provider”) is not the person who issued the voucher (the “issuer”), for the purposes of this Act the provider is to be treated as having made a supply of those goods or services to the issuer.

*Multi-purpose vouchers: special rules*

- 6 A voucher is a multi-purpose voucher if it is not a single purpose voucher.
- 7 (1) Any consideration for the issue or subsequent transfer of a multi-purpose voucher is to be disregarded for the purposes of this Act.

*Status: Point in time view as at 26/07/2021.*

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- (2) The paragraph 3 supply made on the issue or subsequent transfer of a multi-purpose voucher is to be treated as not being a supply within section 26(2).
- 8 (1) Where a multi-purpose voucher is accepted as consideration for the provision of relevant goods or services, for the purposes of this Act—
- (a) the provision of the relevant goods or services is to be treated as a supply, and
  - (b) the value of the supply treated as having been made by paragraph (a) is determined as follows.
- (2) If the consideration for the most recent transfer of the voucher for consideration is known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to that consideration.
- (3) If the consideration for the most recent transfer of the voucher for consideration is not known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to the face value of the voucher.
- (4) The “face value” of a voucher is the monetary value stated on or recorded in—
- (a) the voucher, or
  - (b) the terms and conditions governing the use of the voucher.

#### *Intermediaries*

- 9 (1) This paragraph applies where—
- (a) a voucher is issued or transferred by an agent who acts in their own name, and
  - (b) the paragraph 3 supply is a supply of services to which section 47(3) would apply (apart from this paragraph).
- (2) Section 47(3) does not apply.
- (3) The paragraph 3 supply is treated as both a supply to the agent and a supply by the agent.
- 10 Nothing in this Schedule affects the application of this Act to any services provided, by a person who issues or transfers a voucher, in addition to the issue or transfer of the voucher.

#### *Composite transactions*

- 11 (1) This paragraph applies where, as part of a composite transaction—
- (a) goods or services are supplied to a person, and
  - (b) a voucher is issued or transferred to that person.
- (2) If the total consideration for the transaction is not different, or not significantly different, from what it would be if the voucher were not issued or transferred, the paragraph 3 supply is to be treated as being made for no consideration.]

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## SCHEDULE 11

Section 58.

## ADMINISTRATION, COLLECTION AND ENFORCEMENT

*General*

[<sup>F1635</sup>] The Commissioners for Her Majesty’s Revenue and Customs shall be responsible for the collection and management of VAT.]

**Textual Amendments**

**F1635**Sch. 11 para. 1 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 56](#); S.I. 2005/1126, art. 2(2)(h)

*F1636 Accounting for VAT... and payment of VAT***Textual Amendments**

**F1636**Words in Sch. 11 para. 2 heading repealed (1.12.2003) by [Finance Act 2002 \(c. 23\)](#), s. 24(5), [Sch. 40 Pt. 2](#); S.I. 2003/3043, art. 2

2 (1) Regulations under this paragraph may require the keeping of accounts [<sup>F1637</sup>, the making of returns and the submission of information] in such form and manner as may be specified in the regulations <sup>F1638</sup>... [<sup>F1639</sup>or by the Commissioners in accordance with the regulations.]

<sup>F1640</sup>(2) .....

<sup>F1640</sup>(2A) .....

<sup>F1641</sup>(3) .....

<sup>F1642</sup>(3ZA) .....

[<sup>F1643</sup>(3A) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—

(a) specified in the regulations, or

[<sup>F1644</sup>(b) specified by the Commissioners in accordance with the regulations,]

of statements containing such particulars of supplies to which section 55A(6) applies in which the taxable persons are concerned, and of the persons concerned in those supplies, as may be [<sup>F1645</sup>so specified].

[<sup>F1646</sup>(3B) Regulations under this paragraph may make provision for requiring—

(a) a person who first makes a supply of goods [<sup>F1647</sup>or services] to which section 55A(6) applies (a “reverse charge supply”),

(b) a person who ceases making reverse charge supplies without intending subsequently to make such supplies, or

(c) a person who has fallen within paragraph (b) above but who nonetheless starts to make reverse charge supplies again,



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to give to the Commissioners such notification of that fact at such time and in such form and manner as may be specified in the regulations or [<sup>F1648</sup>by the Commissioners in accordance with the regulations].]

<sup>F1649</sup>(4) .....

<sup>F1650</sup>(5) .....

[<sup>F1651</sup>(5A) Regulations under this paragraph may make provision—

(a) for requiring the relevant person to give to the Commissioners such notification of the arrival in the United Kingdom of goods consisting of a means of transport, at such time and in such form and manner, as may be specified in the regulations or by the Commissioners in accordance with the regulations, and

[<sup>F1652</sup>(b) where notification of the arrival of a means of transport imported into the United Kingdom is required by virtue of paragraph (a), for requiring any VAT on its importation to be paid at such time and in such manner as may be specified in the regulations.]

(5B) The provision that may be made by regulations made by virtue of sub-paragraph (5A) includes—

(a) provision for a notification required by virtue of that sub-paragraph to contain such particulars relating to the notified arrival of the means of transport and any VAT chargeable on its <sup>F1653</sup>... importation as may be specified in the regulations or by the Commissioners in accordance with the regulations,

(b) provision for such a notification to be given by a person who is not the relevant person and is so specified, or is of a description so specified,

(c) provision for such a notification to contain a declaration, given in such form and by such person as may be so specified, as to the information contained in the notification, and

(d) supplementary, incidental, consequential or transitional provision (including provision amending any provision made by or under this Act or any other enactment).

(5C) Subsection (3) of section 97 (orders subject to Commons approval) applies to a statutory instrument containing any regulations made by virtue of sub-paragraph (5A) which amend an enactment as it applies to an order within subsection (4) of that section.

(5D) For the purposes of sub-paragraph (5A)—

<sup>F1654</sup>  
...

“relevant person”, in relation to the arrival of a means of transport in the United Kingdom, means—

(a) <sup>F1655</sup>  
...

(b) where it has been imported <sup>F1656</sup>..., the person liable to pay VAT on the importation, and

(c) <sup>F1657</sup>  
...

[ For the purposes of sub-paragraphs (5A) to (5D) “means of transport” means—

<sup>F1658</sup>(5E) (a) any ship which exceeds 7.5 metres in length,

(b) any aircraft the take-off weight of which exceeds 1550 kilograms, or

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- (c) any motorised land vehicle which—
- (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres, or
  - (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts,
- but only if the ship, aircraft or vehicle is intended for the transport of persons or goods.
- (5F) The Treasury may by order vary sub-paragraph (5E) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified there.]
- (6) Regulations under this paragraph may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or any description of services as may be determined by or under the regulations and, in particular—
- (a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice or as may be agreed with the Commissioners; and
  - (b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and
  - (c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.
- (7) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations, VAT in respect of a supply may be accounted for and paid by reference to the time when consideration for the supply is received; and any such regulations may make such modifications of the provisions of this Act (including in particular, but without prejudice to the generality of the power, the provisions as to the time when, and the circumstances in which, credit for input tax is to be allowed) as appear to the Commissioners necessary or expedient.
- (8) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations—
- (a) VAT in respect of any supply by a taxable person of dutiable goods, <sup>F1659</sup> ...
  - <sup>F1659</sup>(b) .....  
may be accounted for and paid, and any question as to the inclusion of any duty or agricultural levy in the value of the supply <sup>F1660</sup> ... determined, by reference to the duty point or by reference to such later time as the Commissioners may allow.
- In this sub-paragraph “dutiable goods” and “duty point” have the same meanings as in section 18.
- <sup>F1661</sup>(9) .....
- (10) Regulations under this paragraph may make provision—
- (a) for treating VAT chargeable in one prescribed accounting period as chargeable in another such period; and

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- (b) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise; and
  - (c) for the making of financial adjustments in connection with the making of entries in accounts for the purpose mentioned in paragraph (b) above  
[<sup>F1662</sup>and
  - (d) for a person, for purposes connected with the making of any such entry or financial adjustment, to be required to provide to any prescribed person, or to retain, a document in the prescribed form containing prescribed particulars of the matters to which the entry or adjustment relates; and
  - (e) for enabling the Commissioners, in such cases as they may think fit, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d) above.]
- (11) Regulations under this paragraph may make different provision for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.
- [Regulations under this paragraph may include incidental, supplemental,  
<sup>F1663</sup>(11A) consequential, saving, transitional or transitory provision.]
- (12) The provisions made by regulations under this paragraph for cases where goods are treated as supplied by a taxable person by virtue of paragraph 7 of Schedule 4 may require VAT chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.
- (13) Where, at the end of a prescribed accounting period, the amount of VAT due from any person or the amount of any VAT credit would be less than £1, that amount shall be treated as nil.]

#### Textual Amendments

- F1637** Words in Sch. 11 para. 2(1) substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 62\(2\)\(a\)](#)
- F1638** Words in Sch. 11 para. 2(1) repealed (1.12.2003) by [Finance Act 2002 \(c. 23\), s. 24\(5\), Sch. 40 Pt. 2; S.I. 2003/3043, art. 2](#)
- F1639** Words in Sch. 11 para. 2(1) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 12\(2\)](#)
- F1640** Sch. 11 para. 2(2)(2A) repealed (1.12.2003) by [Finance Act 2002 \(c. 23\), s. 24\(5\), Sch. 40 Pt. 2; S.I. 2003/3043, art. 2](#)
- F1641** Sch. 11 para. 2(3) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 97\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F1642** Sch. 11 para. 2(3ZA) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 97\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F1643** Sch. 11 para. 2(3A)(3B) inserted (1.6.2007) by [Finance Act 2006 \(c. 25\), s. 19\(7\)](#); [S.I. 2007/1419, art. 2](#)
- F1644** Sch. 11 para. 2(3A)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 12\(4\)\(a\)](#)
- F1645** Words in Sch. 11 para. 2(3A) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 12\(4\)\(b\)](#)
- F1646** Sch. 11 para. 2(3B) substituted (1.6.2007) by [The Value Added Tax \(Administration, Collection and Enforcement\) Order 2007 \(S.I. 2007/1421\), arts. 1, 2](#)
- F1647** Words in Sch. 11 para. 2(3B) inserted (8.4.2010) by [Finance Act 2010 \(c. 13\), s. 50\(2\)](#)
- F1648** Words in Sch. 11 para. 2(3B) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 12\(5\)](#)

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- F1649**Sch. 11 para. 2(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1650**Sch. 11 para. 2(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1651**Sch. 11 para. 2(5A)-(5D) inserted (17.7.2012) by Finance Act 2012 (c. 14), **s. 202**
- F1652**Sch. 11 para. 2(5A)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1653**Words in Sch. 11 para. 2(5B)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(d)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1654**Words in Sch. 11 para. 2(5D) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(e)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1655**Words in Sch. 11 para. 2(5D) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(e)(ii)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1656**Words in Sch. 11 para. 2(5D) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(e)(ii)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1657**Words in Sch. 11 para. 2(5D) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(e)(ii)(c)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1658**Sch. 11 para. 2(5E)(5F) inserted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(f)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1659**Sch. 11 para. 2(8)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(g)(i)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1660**Words in Sch. 11 para. 2(8) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(g)(ii)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1661**Sch. 11 para. 2(9) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 97(2)(h)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F1662**Sch. 11 para. 2(10)(d)(e) and word preceding it inserted (29.4.1996) by 1996 c. 8, **s. 38(3)**
- F1663**Sch. 11 para. 2(11A) inserted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), **s. 62(2)(b)**

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## *F<sup>1664</sup> VAT invoices*

### **Textual Amendments**

**F1664**Sch. 11 paras. 2A, 2B and cross-headings inserted (1.12.2003) by [Finance Act 2002 \(c. 23\), s. 24\(2\)\(5\)](#); [S.I. 2003/3043, art. 2](#)

- 2A (1) Regulations may require a taxable person supplying goods or services to provide an invoice (a “VAT invoice”) to the person supplied.
- (2) A VAT invoice must give—
- such particulars as may be prescribed of the supply, the supplier and the person supplied;
  - such an indication as may be prescribed of whether VAT is chargeable on the supply under this Act <sup>F1665</sup> ...;
  - such particulars of any VAT that is so chargeable as may be prescribed.
- (3) Regulations may confer power on the Commissioners to allow the requirements of any regulations as to the information to be given in a VAT invoice to be relaxed or dispensed with.
- (4) Regulations may—
- provide that the VAT invoice that is required to be provided in connection with a particular description of supply must be provided within a prescribed time after the supply is treated as taking place, or at such time before the supply is treated as taking place as may be prescribed;
  - allow for the invoice to be issued later than required by the regulations where it is issued in accordance with general or special directions given by the Commissioners.
- (5) Regulations may—
- make provision about the manner in which a VAT invoice may be provided, including provision prescribing conditions that must be complied with in the case of an invoice issued by a third party on behalf of the supplier;
  - prescribe conditions that must be complied with in the case of a VAT invoice that relates to more than one supply;
  - make, in relation to a document that refers to a VAT invoice and is intended to amend it, such provision corresponding to that which may be made in relation to a VAT invoice as appears to the Commissioners to be appropriate.
- (6) Regulations may confer power on the Commissioners to require a person who has received in the United Kingdom a VAT invoice that is (or part of which is) in a language other than English to provide them with an English translation of the invoice (or part).
- (7) Regulations under this paragraph—
- may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
  - may make different provision for different circumstances.

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### Textual Amendments

**F1665** Words in [Sch. 11 para. 2A\(2\)\(b\)](#) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\)](#), [Sch. 8 para. 97\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

### *Self-billed invoices*

- 2B (1) This paragraph applies where a taxable person provides to himself a document (a “self-billed invoice”) that purports to be a VAT invoice in respect of a supply of goods or services to him by another taxable person.
- (2) Subject to compliance with such conditions as may be—
- prescribed,
  - specified in a notice published by the Commissioners, or
  - imposed in a particular case in accordance with regulations,
- a self-billed invoice shall be treated as the VAT invoice required by regulations under paragraph 2A above to be provided by the supplier.
- (3) For the purposes of section 6(4) (under which the time of supply can be determined by the prior issue of an invoice) a self-billed invoice shall not be treated as issued by the supplier.
- (4) For the purposes of section 6(5) and (6) (under which the time of supply can be determined by the subsequent issue of an invoice) a self-billed invoice in relation to which the conditions mentioned in sub-paragraph (2) are complied with shall, subject to compliance with such further conditions as may be prescribed, be treated as issued by the supplier.
- In such a case, any notice of election given or request made for the purposes of section 6(5) or (6) by the person providing the self-billed invoice shall be treated for those purposes as given or made by the supplier.
- (5) Regulations under this paragraph—
- may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
  - may make different provision for different circumstances.]

### *[<sup>F1666</sup> Electronic communication and storage of VAT invoices etc*

### Textual Amendments

**F1666** [Sch. 11 para. 3](#) and cross-heading substituted (1.12.2003) by [Finance Act 2002 \(c. 23\), s. 24\(3\)\(5\)](#); [S.I. 2003/3043](#), [art. 2](#)

- 3 (1) Regulations may prescribe, or provide for the Commissioners to impose in a particular case, conditions that must be complied with in relation to—
- the provision by electronic means of any item to which this paragraph applies;

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- (b) the preservation by electronic means of any such item or of information contained in any such item.
- (2) The items to which this paragraph applies are—
  - (a) any VAT invoice;
  - (b) any document that refers to a VAT invoice and is intended to amend it;
  - <sup>F1667</sup>(c) .....
- (3) Regulations under this paragraph may make different provision for different circumstances.]

**Textual Amendments**

<sup>F1667</sup>Sch. 11 para. 3(2)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 97\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), [regs. 1\(2\), 21](#)), [S.I. 2020/1545](#), [Pt. 4](#) and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), [reg. 4\(b\)](#) (with [reg. 7](#))

*Power to require security and production of evidence*

- <sup>F1668</sup>(1) The Commissioners may, as a condition of allowing or repaying input tax to any person, require the production of such evidence relating to VAT as they may specify.
  - (1A) If they think it necessary for the protection of the revenue, the Commissioners may require, as a condition of making any VAT credit, the giving of such security for the amount of the payment as appears to them appropriate.]
- <sup>F1669</sup>(2) If they think it necessary for the protection of the revenue, the Commissioners may require a taxable person, as a condition of his supplying or being supplied with goods or services under a taxable supply, to give security, or further security, for the payment of any VAT that is or may become due from—
  - (a) the taxable person, or
  - (b) any person by or to whom relevant goods or services are supplied.
- (3) In sub-paragraph (2) above “relevant goods or services” means goods or services supplied by or to the taxable person.
- (4) Security under sub-paragraph (2) above shall be of such amount, and shall be given in such manner, as the Commissioners may determine.
- (5) The powers conferred on the Commissioners by sub-paragraph (2) above are without prejudice to their powers under section 48(7).]

**Textual Amendments**

<sup>F1668</sup>Sch. 11 para. 4(1)(1A) substituted for Sch. 11 para. 4(1) (retrospective to 10.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 17\(3\)\(8\)](#)

<sup>F1669</sup>Sch. 11 para. 4(2)-(5) substituted for Sch. 11 para. 4(2) (retrospective to 10.4.2003) by [Finance Act 2003 \(c. 14\)](#), [s. 17\(4\)\(8\)](#)

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*Recovery of VAT, etc*

- 5 (1) VAT due from any person shall be recoverable as a debt due to the Crown.
- (2) Where an invoice shows a supply of goods or services as taking place with VAT chargeable on it, there shall be recoverable from the person who issued the invoice an amount equal to that which is shown on the invoice as VAT or, if VAT is not separately shown, to so much of the total amount shown as payable as is to be taken as representing VAT on the supply.
- (3) Sub-paragraph (2) above applies whether or not—
  - (a) the invoice is a VAT invoice issued in pursuance of paragraph 2(1) above; or
  - (b) the supply shown on the invoice actually takes or has taken place, or the amount shown as VAT, or any amount of VAT, is or was chargeable on the supply; or
  - (c) the person issuing the invoice is a taxable person;
 and any sum recoverable from a person under the sub-paragraph shall, if it is in any case VAT be recoverable as such and shall otherwise be recoverable as a debt due to the Crown.

- F1670(4) .....
- F1670(5) .....
- F1670(6) .....
- F1670(7) .....
- F1670(8) .....
- F1670(9) .....
- F1670(10) .....

**Textual Amendments**  
 F1670Sch. 11 para. 5(4)-(10) repealed (1.7.1997) by 1997 c. 16, 113, Sch. 18 Pt. V(2), Note; S.I. 1997/1433, art. 2

*Duty to keep records*

- 6 (1) Every taxable person shall keep such records as the Commissioners may by regulations require <sup>F1671</sup> ....
- (2) Regulations under sub-paragraph (1) above may make different provision for different cases and may be framed by reference to such records as may be specified in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.
- (3) The Commissioners may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as they may [<sup>F1672</sup>specify in writing (and different periods may be specified for different cases)].
- <sup>F1673</sup>(4) The duty under this paragraph to preserve records may be discharged—



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- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means,

subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.]

[<sup>F1674</sup>(4A) In relation to a relevant taxable person, a duty under this paragraph to preserve records relating to a relevant taxable supply must be discharged by at least preserving the information contained in the records electronically.

(4B) A relevant taxable person must make available to the Commissioners electronically on request any records preserved in accordance with sub-paragraph (4A).

(4C) In sub-paragraph (4A) “relevant taxable supply” means a supply of goods where—  
(a) that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5A, or  
(b) the place of supply of those goods is determined by section 7(5B).

(4D) In sub-paragraphs (4A) and (4B) “relevant taxable person” means a person who is a taxable person and who—  
(a) is the operator of an online marketplace,  
(b) is a person making taxable supplies of goods facilitated by an online marketplace, or  
(c) makes taxable supplies, the place of supply of which is determined by section 7(5B).]

[<sup>F1675</sup>(5) The Commissioners may by regulations make [<sup>F1676</sup>further] provision about the form in which, and means by which, records are to be kept and preserved.

- (6) Regulations under sub-paragraph (5) may—
- (a) make different provision for different cases;
  - (b) provide for any provision of the regulations to be subject to conditions or exceptions specified in writing by the Commissioners;
  - (c) include incidental, supplemental, consequential, saving, transitional or transitory provision.

<sup>F1677</sup>(7) .....

<sup>F1677</sup>(8) .....

<sup>F1677</sup>(9) .....

(10) Regulations under sub-paragraph (5) requiring records to be kept or preserved in electronic form may (among other things) make provision—

- (a) as to the electronic form in which records are to be kept or preserved,
- (b) for the production of the contents of records kept or preserved in accordance with the regulations,
- (c) as to conditions that must be complied with in connection with the keeping or preservation of electronic records,
- (d) for treating records as not having been kept or preserved unless conditions are complied with,
- (e) for authenticating records,

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- (f) about the manner of proving for any purpose the contents of any records (including provision for the application of conclusive or other presumptions).
- (11) Regulations under sub-paragraph (5) requiring records to be kept or preserved in electronic form may—
- (a) allow any authorisation or requirement for which the regulations may provide to be given by means of a specific or general direction given by the Commissioners,
  - (b) provide that the conditions of an authorisation or requirement are to be taken to be satisfied only where the Commissioners are satisfied as to specified matters.]

#### Textual Amendments

- F1671** Words in Sch. 11 para. 6(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 97(5)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with [reg. 7](#))
- F1672** Words in Sch. 11 para. 6(3) substituted (1.4.2009) by [Finance Act 2008](#) (c. 9), s. 115(2), **Sch. 37 para. 5(2)**; [S.I. 2009/402](#), art. 2
- F1673** Sch. 11 para. 6(4) substituted for Sch. 11 para. 6(4)-(6) (1.4.2009) by [Finance Act 2008](#) (c. 9), s. 115(2), **Sch. 37 para. 5(3)**; [S.I. 2009/402](#), art. 2
- F1674** Sch. 11 para. 6(4A)-(4D) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020](#) (c. 26), s. 11(1)(e), **Sch. 3 para. 17(2)** (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 9
- F1675** Sch. 11 para. 6(5)-(11) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017](#) (c. 32), s. 62(3)(b) (with s. 62(7))
- F1676** Word in Sch. 11 para. 6(5) inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020](#) (c. 26), s. 11(1)(e), **Sch. 3 para. 17(3)** (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 9
- F1677** Sch. 11 para. 6(7)-(9) omitted (10.6.2021) by virtue of [Finance Act 2021](#) (c. 26), s. 94

#### Modifications etc. (not altering text)

- C114** Sch. 11 para. 6(2)-(4) extended (27.7.1999) by [1999 c. 16](#), s. 13(6)

- [<sup>F1678</sup>6(1) The Commissioners may direct any taxable person named in the direction to keep such records as they specify in the direction in relation to such goods as they so specify.
- (2) A direction under this paragraph may require the records to be compiled by reference to VAT invoices or any other matter.
  - (3) The Commissioners may not make a direction under this paragraph unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying taxable supplies in respect of which the VAT chargeable might not be paid.
  - (4) The taxable supplies in question may be supplies made by—
    - (a) the person named in the direction, or
    - (b) any other person.
  - (5) A direction under this paragraph—

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- (a) must be given by notice in writing to the person named in it,
  - (b) must warn that person of the consequences under section 69B of failing to comply with it, and
  - (c) remains in force until it is revoked or replaced by a further direction.
- (6) The Commissioners may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as they may require.
- (7) [<sup>F1679</sup>Sub-paragraph (4) of paragraph 6 (preservation of information) applies] for the purposes of this paragraph as [<sup>F1680</sup>it applies] for the purposes of that paragraph.
- (8) This paragraph is without prejudice to the power conferred by paragraph 6(1) to make regulations requiring records to be kept.
- (9) Any records required to be kept by virtue of this paragraph are in addition to any records required to be kept by virtue of paragraph 6.]

**Textual Amendments**

**F1678**Sch. 11 para. 6A inserted (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 21\(6\)](#)

**F1679**Words in Sch. 11 para. 6A(7) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 115\(2\), Sch. 37 para. 6\(a\)](#); [S.I. 2009/402, art. 2](#)

**F1680**Words in Sch. 11 para. 6A(7) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 115\(2\), Sch. 37 para. 6\(b\)](#); [S.I. 2009/402, art. 2](#)

*Furnishing of information and production of documents*

- 7 (1) The Commissioners may by regulations make provision for requiring taxable persons to notify to the Commissioners such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Commissioners required for the purpose of keeping the register kept under this Act up to date.

<sup>F1681</sup>(2) .....

<sup>F1681</sup>(3) .....

<sup>F1681</sup>(4) .....

<sup>F1681</sup>(5) .....

<sup>F1681</sup>(6) .....

<sup>F1681</sup>(7) .....

<sup>F1681</sup>(8) .....

<sup>F1681</sup>(9) .....

**Textual Amendments**

**F1681**Sch. 11 para. 7(2)-(9) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\), s. 113\(2\), Sch. 36 para. 87\(2\)](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404, art. 2](#)

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*Power to take samples*

- 8 <sup>F1682</sup>(1) An authorised person may take samples from goods that are in the possession of either a person who supplies goods or a fiscal warehousekeeper if it appears necessary to do so—
  - (a) to protect the revenue against mistake or fraud, and
  - (b) to determine how the goods, or the material of which they are made, ought to be or to have been treated for the purposes of VAT.]
- (2) Any sample taken under this paragraph shall be disposed of and accounted for in such manner as the Commissioners may direct.
- (3) Where a sample is taken under this paragraph from the goods in any person’s possession and is not returned to him within a reasonable time and in good condition the Commissioners shall pay him by way of compensation a sum equal to the cost of the sample to him or such larger sum as they may determine.

**Textual Amendments**  
**F1682**Sch. 11 para. 8(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 97\(6\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

*Power to require opening of <sup>F1683</sup>machines on which relevant machine games are played]*

**Textual Amendments**  
**F1683**Words in Sch. 11 para. 9 heading substituted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 24 para. 65\(4\)](#)

- 9 An authorised person may at any reasonable time require a person making such a supply as is referred to in section 23(1) or any person acting on his behalf—
  - <sup>F1684</sup>(a) to open any machine on which relevant machine games (as defined in section 23A) are capable of being played; and]
  - (b) to carry out any other operation which may be necessary to enable the authorised person to ascertain the amount which, in accordance with <sup>F1685</sup>section 23(3)], is to be taken as the value of supplies made in the circumstances mentioned in subsection (1) of that section in any period.

**Textual Amendments**  
**F1684**Sch. 11 para. 9(a) substituted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 24 para. 65\(2\)](#)  
**F1685**Words in Sch. 11 para. 9(b) substituted (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 24 para. 65\(3\)](#)

*Entry and search of premises and persons*

10 <sup>F1686</sup>(1) . . . . .

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F1686	(2)	.....
F1686	(2A)	.....
F1687	(3)	.....
F1687	(4)	.....
F1687	(5)	.....
F1687	(6)	.....

#### Textual Amendments

**F1686**Sch. 11 para. 10(1)-(2A) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 87\(3\)](#) (with [Sch. 36 para. 38](#)); S.I. 2009/404, art. 2

**F1687**Sch. 11 para. 10(3)-(6) repealed (8.11.2007) by [Finance Act 2007 \(c. 11\)](#), s. 84(4)(5), [Sch. 22 para. 8\(b\)](#), [Sch. 27 Pt. 5\(1\)](#); S.I. 2007/3166, art. 2(c)

#### *Order for access to recorded information etc.*

- 11 (1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of <sup>F1688</sup>section 308 of the Criminal Procedure (Scotland) Act 1995] is satisfied that there are reasonable grounds for believing—
- (a) that an offence in connection with VAT is being, has been or is about to be committed, and
  - (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,
- he may make an order under this paragraph.
- (2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—
- (a) give an authorised person access to it, and
  - (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,
- not later than the end of the period of 7 days beginning on the date of the order or the end of such longer period as the order may specify.
- (3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.
- (4) Where the recorded information consists of information <sup>F1689</sup>stored in any electronic form], an order under this paragraph shall have effect as an order to produce the information in a form in which it is visible and legible <sup>F1690</sup>or from which it can readily be produced in a visible and legible form] and, if the authorised person wishes to remove it, in a form in which it can be removed.
- (5) This paragraph is without prejudice to paragraphs 7 and 10 above.

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### Textual Amendments

- F1688** Words in Sch. 11 para. 11(1) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 91(b)**
- F1689** Words in Sch. 11 para. 11(4) substituted (1.4.2003) by **Criminal Justice and Police Act 2001 (c. 16), s. 138(2), Sch. 2 para. 13(1)(a), (2)(f); S.I. 2003/708, art. 2(k)**
- F1690** Words in Sch. 11 para. 11(4) inserted (1.4.2003) by **Criminal Justice and Police Act 2001 (c. 16), s. 138(2), Sch. 2 para. 13(1)(b), (2)(f); S.I. 2003/708, art. 2(k)**

### *Procedure where documents etc. are removed*

- 12 (1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 10 or 11 above shall, if so requested by a person showing himself—
- (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,
- provide that person with a record of what he removed.
- (2) The authorised person shall provide the record within a reasonable time from the making of the request for it.
- (3) Subject to sub-paragraph (7) below, if a request for permission to be granted access to anything which—
- (a) has been removed by an authorised person, and
  - (b) is retained by the Commissioners for the purposes of investigating an offence,
- is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.
- (4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—
- (a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it, or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (5) Where anything is photographed or copied under sub-paragraph (4)(b) above the photograph or copy shall be supplied to the person who made the request.
- (6) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (7) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation;
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
  - (c) any criminal proceedings which may be brought as a result of—

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- (i) the investigation of which he is in charge, or
  - (ii) any such investigation as is mentioned in paragraph (b) above.
- (8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant or order concerned as being the officer so in charge.
- 13 (1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 12 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.
- (2) An application under sub-paragraph (1) above shall be made—
- (a) in the case of a failure to comply with any of the requirements imposed by paragraph 12(1) and (2) above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and
  - (b) in any other case, by the person who had such custody or control.
- (3) In this paragraph “the appropriate judicial authority” means—
- (a) in England and Wales, a magistrates’ court;
  - (b) in Scotland, the sheriff; and
  - (c) in Northern Ireland, a court of summary jurisdiction.
- (4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the <sup>M66</sup> Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

**Marginal Citations**

**M66** 1954 c. 33(N.I.)

*Evidence by certificate, etc*

- 14 (1) A certificate of the Commissioners—
- (a) that a person was or was not, at any date, registered under this Act; or
  - (b) that any return required by or under this Act has not been made or had not been made at any date; or
  - (c) that any statement or notification required to be submitted or given to the Commissioners in accordance with any regulations under paragraph [F16912(5A)] above has not been submitted or given or had not been submitted or given at any date; <sup>F1692</sup> ...
- <sup>F1692</sup>(d) .....  
shall be sufficient evidence of that fact until the contrary is proved.
- (2) A photograph of any document furnished to the Commissioners for the purposes of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

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- (3) Any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be deemed to be such a certificate until the contrary is proved.

#### Textual Amendments

**F1691** Words in Sch. 11 para. 14(1)(c) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 97(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1692** Sch. 11 para. 14(1)(d) and word omitted (21.7.2008) by virtue of [Finance Act 2008](#) (c. 9), **Sch. 44 para. 6**

## [<sup>F1693</sup>SCHEDULE 11A

Section 58A

### DISCLOSURE OF AVOIDANCE SCHEMES

#### Textual Amendments

**F1693** Sch. 11A inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004](#) (c. 12), s. 19(2), **Sch. 2 para. 2**; S.I. 2004/1934, art. 2

#### Modifications etc. (not altering text)

**C115** Sch. 11A modified (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017](#) (c. 32), s. **66(2)(4)**

#### *Interpretation*

- 1 In this Schedule—
- “designated scheme” has the meaning given by paragraph 3(4);
  - [<sup>F1694</sup>“non-deductible tax”, in relation to a taxable person, has the meaning given by paragraph 2A;]
  - “notifiable scheme” has the meaning given by paragraph 5(1);
  - “scheme” includes any arrangements, transaction or series of transactions;
  - “tax advantage” is to be read in accordance with paragraph 2.

#### Textual Amendments

**F1694** Words in Sch. 11A para. 1 inserted (1.8.2005) by [Finance \(No. 2\) Act 2005](#) (c. 22), s. 6(2), **Sch. 1 para. 2**; S.I. 2005/2010, art. 2 (with art. 4)

#### *Obtaining a tax advantage*

- [<sup>F1695</sup>2 (1) For the purposes of this Schedule, a taxable person obtains a tax advantage if—
- (a) in any prescribed accounting period, the amount by which the output tax accounted for by him exceeds the input tax deducted by him is less than it would otherwise be,



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- (b) he obtains a VAT credit when he would not otherwise do so, or obtains a larger VAT credit or obtains a VAT credit earlier than would otherwise be the case,
  - (c) in a case where he recovers input tax as a recipient of a supply before the supplier accounts for the output tax, the period between the time when the input tax is recovered and the time when the output tax is accounted for is greater than would otherwise be the case, or
  - (d) in any prescribed accounting period, the amount of his non-deductible tax is less than it would otherwise be.
- (2) For the purposes of this Schedule, a person who is not a taxable person obtains a tax advantage if his non-refundable tax is less than it would otherwise be.
- (3) In sub-paragraph (2), “non-refundable tax”, in relation to a person who is not a taxable person, means—
- (a) VAT on the supply to him of any goods or services,
  - (b) VAT on the acquisition by him from another member State of any goods, and
  - (c) VAT paid or payable by him on the importation of any goods from a place outside the member States,
- but excluding (in each case) any VAT in respect of which he is entitled to a refund from the Commissioners by virtue of any provision of this Act.]

#### Textual Amendments

**F1695**Sch. 11A para. 2 substituted (1.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 6\(2\)](#), [Sch. 1 para. 3](#); [S.I. 2005/2010, art. 2](#) (with [art. 4](#))

#### <sup>F1696</sup>Meaning of “non-deductible tax”

#### Textual Amendments

**F1696**Sch. 11 para. 2A and cross-heading inserted (1.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 6\(2\)](#), [Sch. 1 para. 4](#); [S.I. 2005/2010, art. 2](#) (with [art. 4](#))

- 2A (1) In this Schedule “non-deductible tax”, in relation to a taxable person, means—
- (a) input tax for which he is not entitled to credit under section 25, and
  - (b) any VAT incurred by him which is not input tax and in respect of which he is not entitled to a refund from the Commissioners by virtue of any provision of this Act.
- (2) For the purposes of sub-paragraph (1)(b), the VAT “incurred” by a taxable person is—
- (a) VAT on the supply to him of any goods or services,
  - (b) <sup>F1697</sup>... and
  - (c) VAT paid or payable by him on the importation of any goods <sup>F1698</sup>....]

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### Textual Amendments

**F1697**Sch. 11A para. 2A(2)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 98(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F1698**Words in Sch. 11A para. 2A(2)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018](#) (c. 22), s. 57(3), **Sch. 8 para. 98(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### *Designation by order of avoidance schemes*

- 3 (1) If it appears to the Treasury—
- (a) that a scheme of a particular description has been, or might be, entered into for the purpose of enabling any person to obtain a tax advantage, and
  - (b) that it is unlikely that persons would enter into a scheme of that description unless the main purpose, or one of the main purposes, of doing so was the obtaining by any person of a tax advantage,
- the Treasury may by order designate that scheme for the purposes of this paragraph.
- (2) A scheme may be designated for the purposes of this paragraph even though the Treasury are of the opinion that no scheme of that description could as a matter of law result in the obtaining by any person of a tax advantage.
- (3) The order must allocate a reference number to each scheme.
- (4) In this Schedule “designated scheme” means a scheme of a description designated for the purposes of this paragraph.

### *Designation by order of provisions included in or associated with avoidance schemes*

- 4 (1) If it appears to the Treasury that a provision of a particular description is, or is likely to be, included in or associated with schemes that are entered into for the purpose of enabling any person to obtain a tax advantage, the Treasury may by order designate that provision for the purposes of this paragraph.
- (2) A provision may be designated under this paragraph even though it also appears to the Treasury that the provision is, or is likely to be, included in or associated with schemes that are not entered into for the purpose of obtaining a tax advantage.
- (3) In this paragraph “provision” includes any agreement, transaction, act or course of conduct.

### *Meaning of “notifiable scheme”*

- 5 (1) For the purposes of this Schedule, a scheme is a “notifiable scheme” if—
- (a) it is a designated scheme, or
  - (b) although it is not a designated scheme, conditions A and B below are met in relation to it.
- (2) Condition A is that the scheme includes, or is associated with, a provision of a description designated under paragraph 4.

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- (3) Condition B is that the scheme has as its main purpose, or one of its main purposes, the obtaining of a tax advantage by any person.

*Duty to notify Commissioners*

- 6 (1) This paragraph applies in relation to a taxable person where—
- (a) the amount of VAT shown in a return in respect of a prescribed accounting period as payable by or to him is less than or greater than it would be but for any notifiable scheme to which he is party, <sup>F1699</sup> ...
  - (b) he makes a claim for the repayment of output tax or an increase in credit for input tax in respect of any prescribed accounting period in respect of which he has previously delivered a return and the amount claimed is greater than it would be but for such a scheme<sup>F1700</sup>, or
  - (c) the amount of his non-deductible tax in respect of any prescribed accounting period is less than it would be but for such a scheme.]
- (2) Where the scheme is a designated scheme, the taxable person must notify the Commissioners within the prescribed time, and in such form and manner as may be required by or under regulations, of the reference number allocated to the scheme under paragraph 3(3).
- [ Sub-paragraph (2) does not apply to a taxable person in relation to any scheme if he <sup>F1701</sup>(2A) has on a previous occasion—
- (a) notified the Commissioners under that sub-paragraph in relation to the scheme, or
  - (b) provided the Commissioners with prescribed information under sub-paragraph (3) (as it applied before the scheme became a designated scheme) in relation to the scheme.]
- (3) Where the scheme is not a designated scheme, the taxable person must, subject to sub-paragraph (4), provide the Commissioners within the prescribed time, and in such form and manner as may be required by or under regulations, with prescribed information relating to the scheme.
- (4) Sub-paragraph (3) does not apply where the scheme is one in respect of which any person has previously—
- (a) provided the Commissioners with prescribed information under paragraph 9, and
  - (b) provided the taxable person with a reference number notified to him by the Commissioners under paragraph 9(2)(b).
- <sup>F1702</sup>(5) Sub-paragraph (3) also does not apply where the scheme is one in respect of which the taxable person has on a previous occasion provided the Commissioners with prescribed information under that sub-paragraph.]
- (6) This paragraph has effect subject to paragraph 7.

**Textual Amendments**

**F1699** Word in Sch. 11A para. 6(1)(a) repealed (1.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 6(2), Sch. 1 para. 5(2)(a), [Sch. 11 Pt. 1](#); [S.I. 2005/2010](#), art. 2 (with art. 4)

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- F1700**Sch. 11A para. 6(1)(c) and word inserted (1.8.2005) by Finance (No. 2) Act 2005 (c. 22), s. 6(2), **Sch. 1 para. 5(2)(b)**; S.I. 2005/2010, art. 2 (with arts. 3, 4)
- F1701**Sch. 11A para. 6(2A) inserted (1.8.2005) by Finance (No. 2) Act 2005 (c. 22), s. 6(2), **Sch. 1 para. 5(3)**; S.I. 2005/2010, art. 2 (with art. 4)
- F1702**Sch. 11A para. 6(5) substituted (1.8.2005) by Finance (No. 2) Act 2005 (c. 22), s. 6(2), **Sch. 1 para. 5(4)**; S.I. 2005/2010, art. 2 (with art. 4)

### *Exemptions from duty to notify under paragraph 6*

- 7 (1) Paragraph 6 does not apply to a taxable person in relation to a scheme—
- (a) where the taxable person is not a group undertaking in relation to any other undertaking and conditions A and B below, as they have effect in relation to the scheme, are met in relation to the taxable person, or
  - (b) where the taxable person is a group undertaking in relation to any other undertaking and conditions A and B below, as they have effect in relation to the scheme, are met in relation to the taxable person and every other group undertaking.
- (2) Condition A is that the total value of the person’s taxable supplies and exempt supplies in the period of twelve months ending immediately before the beginning of the relevant period is less than the minimum turnover.
- (3) Condition B is that the total value of the person’s taxable supplies and exempt supplies in the prescribed accounting period immediately preceding the relevant period is less than the appropriate proportion of the minimum turnover.
- (4) In sub-paragraphs (2) and (3) “the minimum turnover” means—
- (a) in relation to a designated scheme, £600,000, and
  - (b) in relation to any other notifiable scheme, £10,000,000.
- (5) In sub-paragraph (3) “the appropriate proportion” means the proportion which the length of the prescribed accounting period bears to twelve months.
- (6) The value of a supply of goods or services shall be determined for the purposes of this paragraph on the basis that no VAT is chargeable on the supply.
- (7) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (4)(a) or (b) such other sum as they think fit.
- (8) This paragraph has effect subject to paragraph 8.
- (9) In this paragraph—
- “relevant period” means the prescribed accounting period referred to in paragraph [F1703]6(1)(a), (b) or (c);
- “undertaking” and “group undertaking” have the same meanings as in [F1704]section 1161 of the Companies Act 2006].

### **Textual Amendments**

- F1703**Words in Sch. 11A para. 7(9) substituted (1.8.2005) by Finance (No. 2) Act 2005 (c. 22), s. 6(2), **Sch. 1 para. 6**; S.I. 2005/2010, art. 2 (with art. 4)
- F1704**Words in Sch. 11A para. 7(9) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2008 (S.I. 2008/954), arts. 1(1), **20** (with art. 4)

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*Power to exclude exemption*

- 8
- (1) The purpose of this paragraph is to prevent the maintenance or creation of any artificial separation of business activities carried on by two or more persons from resulting in an avoidance of the obligations imposed by paragraph 6.
  - (2) In determining for the purposes of sub-paragraph (1) whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those activities are closely bound to one another by financial, economic and organisational links.
  - (3) If the Commissioners make a direction under this section—
    - (a) the persons named in the direction shall be treated for the purposes of paragraph 7 as a single taxable person carrying on the activities of a business described in the direction with effect from the date of the direction or, if the direction so provides, from such later date as may be specified in the direction, and
    - (b) if paragraph 7 would not exclude the application of paragraph 6, in respect of any notifiable scheme, to that single taxable person, it shall not exclude the application of paragraph 6, in respect of that scheme, to the persons named in the direction.
  - (4) The Commissioners shall not make a direction under this section naming any person unless they are satisfied—
    - (a) that he is making or has made taxable or exempt supplies,
    - (b) that the activities in the course of which he makes those supplies form only part of certain activities, the other activities being carried on concurrently or previously (or both) by one or more other persons, and
    - (c) that, if all the taxable and exempt supplies of the business described in the direction were taken into account, conditions A and B in paragraph 7(2) and (3), as those conditions have effect in relation to designated schemes, would not be met in relation to that business.
  - (5) A direction under this paragraph shall be served on each of the persons named in it.
  - (6) A direction under this paragraph remains in force until it is revoked or replaced by a further direction.

*Voluntary notification of avoidance scheme that is not designated scheme*

- 9
- (1) Any person may, at any time, provide the Commissioners with prescribed information relating to a scheme or proposed scheme of a particular description which is (or, if implemented, would be) a notifiable scheme by virtue of paragraph 5(1)(b).
  - (2) On receiving the prescribed information, the Commissioners may—
    - (a) allocate a reference number to the scheme (if they have not previously done so under this paragraph), and
    - (b) notify the person who provided the information of the number allocated.

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#### Modifications etc. (not altering text)

**C116** Sch. 11A para. 9 excluded (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. **66(3)(4)**

#### *Penalty for failure to notify use of notifiable scheme*

- 10 (1) A person who fails to comply with paragraph 6 shall be liable, subject to sub-paragraphs (2) and (3), to a penalty of an amount determined under paragraph 11.
- (2) Conduct falling within sub-paragraph (1) shall not give rise to liability to a penalty under this paragraph if the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the failure.
- (3) Where, by reason of conduct falling within sub-paragraph (1)—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - (b) a person is assessed to a penalty under section 60 <sup>F1705</sup> or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007],
- that conduct shall not give rise to a penalty under this paragraph.

#### Textual Amendments

**F1705** Words in Sch. 11A para. 10(3)(b) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\)](#), art. 1(1), **Sch. 1 para. 17**

#### *Amount of penalty*

- 11 (1) Where the failure mentioned in paragraph 10(1) relates to a notifiable scheme that is not a designated scheme, the amount of the penalty is £5,000.
- (2) Where the failure mentioned in paragraph 10(1) relates to a designated scheme, the amount of the penalty is 15 per cent. of the VAT saving (as determined under sub-paragraph (3)).
- (3) For this purpose the VAT saving is—
- (a) to the extent that the case falls within paragraph 6(1)(a), the aggregate of—
    - (i) the amount by which the amount of VAT that would, but for the scheme, have been shown in returns in respect of the relevant periods as payable by the taxable person exceeds the amount of VAT that was shown in those returns as payable by him, and
    - (ii) the amount by which the amount of VAT that was shown in such returns as payable to the taxable person exceeds the amount of VAT that would, but for the scheme, have been shown in those returns as payable to him, <sup>F1706</sup>...
  - (b) to the extent that the case falls within paragraph 6(1)(b), the amount by which the amount claimed exceeds the amount which the taxable person would, but for the scheme, have claimed <sup>F1707</sup>, and
  - (c) to the extent that—
    - (i) the case falls within paragraph 6(1)(c), and

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- (ii) the excess of the notional non-deductible tax of the taxable person for the relevant periods over his non-deductible tax for those periods is not represented by a corresponding amount which by virtue of paragraph (a) or (b) is part of the VAT saving,  
the amount of the excess.]
- (4) In sub-paragraph (3)(a) [<sup>F1708</sup>and (c)] “the relevant periods” means the prescribed accounting periods beginning with that in respect of which the duty to comply with paragraph 6 first arose and ending with the earlier of the following—
- (a) the prescribed accounting period in which the taxable person complied with that paragraph, and
  - (b) the prescribed accounting period immediately preceding the notification by the Commissioners of the penalty assessment.
- [ In sub-paragraph (3)(c), “notional non-deductible tax”, in relation to a taxable person,  
<sup>F1709</sup>(5) means the amount that would, but for the scheme, have been the amount of his non-deductible tax.]

#### Textual Amendments

- F1706** Word in Sch. 11A para. 11(3)(a) repealed (1.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 6\(2\), Sch. 1 para. 7\(2\)\(a\), Sch. 11 Pt. 1; S.I. 2005/2010, art. 2 \(with art. 4\)](#)
- F1707** Sch. 11A para. 11(3)(c) and word inserted (1.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 6\(2\), Sch. 1 para. 7\(2\)\(b\); S.I. 2005/2010, art. 2 \(with art. 4\)](#)
- F1708** Words in Sch. 11A para. 11(4) inserted (1.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 6\(2\), Sch. 1 para. 7\(3\); S.I. 2005/2010, art. 2 \(with art. 4\)](#)
- F1709** Sch. 11A para. 11(5) inserted (1.8.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 6\(2\), Sch. 1 para. 7\(4\); S.I. 2005/2010, art. 2 \(with art. 4\)](#)

#### *Penalty assessments*

- 12 (1) Where any person is liable under paragraph 10 to a penalty of an amount determined under paragraph 11, the Commissioners may, subject to sub-paragraph (3), assess the amount due by way of penalty and notify it to him accordingly.
- (2) The fact that any conduct giving rise to a penalty under paragraph 10 may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.
- [<sup>F1710</sup>(3) In a case where—
- (a) the penalty falls to be calculated by reference to the VAT saving as determined under paragraph 11(3), and
  - (b) the notional tax cannot readily be attributed to any one or more prescribed accounting periods,
- the notional tax shall be treated for the purposes of this Schedule as attributable to such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the penalty.
- (3A) In sub-paragraph (3) “the notional tax” means—
- (a) the VAT that would, but for the scheme, have been shown in returns as payable by or to the taxable person, or

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- (b) any amount that would, but for the scheme, have been the amount of the non-deductible tax of the taxable person.]
- (4) No assessment to a penalty under this paragraph shall be made more than two years from the time when facts sufficient, in the opinion of the Commissioners, to indicate that there has been a failure to comply with paragraph 6 in relation to a notifiable scheme came to the Commissioners' knowledge.
- (5) Where the Commissioners notify a person of a penalty in accordance with subparagraph (1), the notice of assessment shall specify—
  - (a) the amount of the penalty,
  - (b) the reasons for the imposition of the penalty,
  - (c) how the penalty has been calculated, and
  - (d) any reduction of the penalty in accordance with section 70.
- (6) Where a person is assessed under this paragraph to an amount due by way of penalty and is also assessed under section 73(1), (2), (7), (7A) or (7B) for any of the prescribed accounting periods to which the assessment under this paragraph relates, the assessments may be combined and notified to him as one assessment, but the amount of the penalty shall be separately identified in the notice.
- (7) If an amount is assessed and notified to any person under this paragraph, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were VAT due from him.
- (8) Subsection (10) of section 76 (notification to certain persons acting for others) applies for the purposes of this paragraph as it applies for the purposes of that section.

**Textual Amendments**

**F1710**Sch. 11A para. 12(3)(3A) substituted for Sch. 11A para. 12(3) (1.8.2005) by [Finance \(No. 2\) Act 2005](#) (c. 22), s. 6(2), [Sch. 1 para. 8](#); S.I. 2005/2010, art. 2 (with art. 4)

*Penalty assessments*

- 13 Regulations under this Schedule—
- (a) may make different provision for different circumstances, and
  - (b) may include transitional provisions or savings.]

F1711 SCHEDULE 12

Section 61.

**Textual Amendments**

**F1711**Sch. 12 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009](#) (S.I. 2009/56), art. 1(2), [Sch. 1 para. 228](#)



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## SCHEDULE 13

Section 100.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### Extent Information

**E2** Sch. 13 para. 23 extends to the Isle of Man.

#### *General provisions*

- 1
- (1) The continuity of the law relating to VAT shall not be affected by the substitution of this Act for the enactments repealed by this Act and earlier enactments repealed by and corresponding to any of those enactments (“the repealed enactments”).
  - (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.
  - (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made or otherwise coming into existence after the commencement of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision.
  - (4) Without prejudice to paragraphs (1) to (3) above, in any case where as respects the charge to VAT on any supply, acquisition or importation made at a time before 1st September 1994 but falling in a prescribed accounting period to which Part I applies
    - (a) an enactment applicable to that charge to VAT is not re-enacted in this Act or is re-enacted with amendments which came into force after that time, or
    - (b) a repealed enactment corresponding to an enactment in this Act did not apply to that charge to VAT,any question arising under Part I and relating to that charge to VAT shall continue to be determined in accordance with the law in force at that time.

#### *Validity of subordinate legislation*

- 2
- So far as this Act re-enacts any provision contained in a statutory instrument made in exercise of powers conferred by any Act, it shall be without prejudice to the validity of that provision, and any question as to its validity shall be determined as if the re-enacted provision were contained in a statutory instrument made under those powers.

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*Provisions related to the introduction of VAT*

- 3 Where a vehicle in respect of which purchase tax was remitted under section 23 of the <sup>M67</sup>Purchase Tax Act 1963 (vehicles for use outside the United Kingdom) is brought back to the United Kingdom the vehicle shall not, when brought back, be treated as imported for the purpose of VAT chargeable on the importation of goods.

**Marginal Citations**  
**M67** 1963 c. 9.

*Supply in accordance with pre-21.4.75 arrangements*

- 4 Where there were in force immediately before 21st April 1975 arrangements between the Commissioners and any taxable person for supplies made by him (or such supplies made by him as were specified in the arrangements) to be treated as taking place at times or on dates which, had section 6(10) been in force when the arrangements were made, could have been provided for by a direction under that section, he shall be treated for the purposes of that section as having requested the Commissioners to give a direction thereunder to the like effect, and the Commissioners may give a direction (or a general direction applying to cases of any class or description specified in the direction) accordingly.

*President, chairmen etc of tribunals*

- 5 (1) Any appointment to a panel of chairmen of the tribunals current at the commencement of this Act and made by the Treasury before the passing of the 1983 Act shall not be affected by the repeal by this Act of paragraph 8 of Schedule 10 to that Act.
- (2) The terms of appointment of any person who was appointed to the office of President of the tribunal or chairman or other member of the tribunals before 1st April 1986 and holds that office on the coming into force of this Act shall continue to have effect notwithstanding the re-enactment, as Schedule 12 to this Act, of Schedule 8 to the 1983 Act as amended by Schedule 8 to the <sup>M68</sup>Finance Act 1985.

**Marginal Citations**  
**M68** 1985 c. 54.

*Overseas suppliers accounting through their customers*

- 6 Notwithstanding the repeal by this Act of section 32B of the 1983 Act, that section shall continue to apply in relation to any supply in relation to which section 14 does not apply by virtue of section 14(8), and for the purposes to this paragraph section 32B shall have effect as if it were included in Part III of this Act, any reference in section 32B to any enactment repealed by this Act being read as a reference to the corresponding provision of this Act.

*Supplies of fuel and power for domestic or charity use*

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### Textual Amendments

**F1712**Sch. 13 para. 7 repealed (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by 1995 c. 4, ss. 21(5), 162, **Sch. 29 Pt. VI** Note

## GROUP 4A

### FUEL AND POWER FOR DOMESTIC OR CHARITY USE

#### Item No.

- 1 Supplies for qualifying use of—
- (a) coal, coke or other solid substances held out for sale solely as fuel;
  - (b) coal gas, water gas, producer gases or similar gases;
  - (c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;
  - (d) fuel oil, gas oil or kerosene; or
  - (e) electricity, heat or air-conditioning.

#### Notes:

- (1) “Qualifying use” means—
- (a) domestic use; or
  - (b) use by a charity otherwise than in the course or furtherance of a business.
- (2) The following supplies are always for domestic use—
- (a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;
  - (b) a supply of wood, peat or charcoal not intended for sale by the recipient;
  - (c) a supply to a person at any premises of piped gas (that is, gas within paragraph (b) of item 1, or of petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;
  - (d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;
  - (e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;
  - (f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;
  - (g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.

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- (3) Supplies not within Note (2) are for domestic use if and only if the goods supplied are for use in—
- (a) a building, or part of a building, which consists of a dwelling or number of dwellings;
  - (b) a building, or part of a building, used for a relevant residential purpose;
  - (c) self-catering holiday accommodation;
  - (d) a caravan; or
  - (e) a houseboat.
- (4) Use for a relevant residential purpose means use as—
- (a) a home or other institution providing residential accommodation for children;
  - (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (c) a hospice;
  - (d) residential accommodation for students or school pupils;
  - (e) residential accommodation for members of any of the armed forces;
  - (f) a monastery, nunnery or similar establishment; or
  - (g) an institution which is the sole or main residence of at least 90 per cent. of its residents,
- except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.
- (5) Self-catering holiday accommodation includes any accommodation advertised or held out as such.
- (6) “Houseboat” means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.
- (7) Where there is a supply of goods partly for qualifying use and partly not—
- (a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and
  - (b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.
- (8) Paragraph (a) of item 1 shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.
- (9) Paragraphs (b) and (c) of item 1 do not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1979) on which a duty of excise has been charged or is chargeable.
- (10) Paragraph (d) of item 1 does not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.
- (11) “Fuel oil” means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.

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- (12) “Gas oil” means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.
- (13) “Kerosene” means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.
- (14) “Heavy oil” shall have the same meaning as in the Hydrocarbon Oil Duties Act 1979.

*Zero-rated supplies of goods and services*

- 8 (1) A supply of services made after the commencement of this Act in pursuance of a legally binding obligation incurred before 21st June 1988 shall if—
  - (a) the supply fell within item 2 of Group 8A of Schedule 5 to the 1983 Act immediately before 1st April 1989, and
  - (b) it was by virtue of paragraph 13(1) of Schedule 3 to the <sup>M69</sup>Finance Act 1989 a zero-rated supply,be a zero-rated supply for the purposes of this Act.
- (2) Where a grant, assignment or other supply is zero-rated by virtue of this paragraph, it is not a relevant zero-rated supply for the purposes of [<sup>F1713</sup>Part 2 of Schedule 10].

**Textual Amendments**

**F1713** Words in Sch. 13 para. 8(2) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), art. 1(1), **Sch. 1 para. 5(a)** (with Sch. 2)

**Marginal Citations**

**M69** 1989 c. 26.

*Bad debt relief*

- 9 <sup>F1714</sup>(1) . . . . .
- [<sup>F1715</sup>(2) Claims for refunds of VAT shall not be made in accordance with section 36 of this Act in relation to—
  - (a) any supply made before 1st April 1989; or
  - (b) any supply as respects which a claim is or has been made under section 22 of the 1983 Act.]

**Textual Amendments**

**F1714** Sch. 13 para. 9(1) repealed (19.3.1997 with effect as mentioned in s. 39 of the amending Act) by 1997 c. 16, ss. 39, 113, **Sch. 18 Pt. IV(3)**, Note

**F1715** Sch. 13 para. 9(2) substituted (retrospectively) by 1995 c. 4, s. 33(4)

*Supplies during construction of buildings and works*

- <sup>F1716</sup>10 . . . . .

*Status: Point in time view as at 26/07/2021.*

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### Textual Amendments

**F1716**Sch. 13 para. 10 omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), art. 1(1), [Sch. 1 para. 5\(b\)](#) (with Sch. 2)

### *Offences and Penalties*

- 11 Where an offence for the continuation of which a penalty was provided has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.
- 12 Part IV of this Act, except section 72, shall not apply in relation to any act done or omitted to be done before 25th July 1985, and the following provision of this Schedule shall have effect accordingly.
- 13 (1) Section 72 shall have effect in relation to any offence committed or alleged to have been committed at any time (“the relevant time”) before the commencement of this Act subject to the following provisions of this paragraph.
- (2) Where the relevant time falls between 25th July 1983 and 26th July 1985 (the dates of passing of the 1983 and 1985 Finance Acts respectively), section 72 shall apply—
- (a) with the substitution in subsection (1)(b), (3)(ii) and (8)(b) of “2 years” for “7 years”;
  - (b) with the omission of subsections (2) and (4) to (7).
- 14 (1) The provisions of this paragraph have effect in relation to section 59.
- (2) Section 59 shall apply in any case where a person is in default in respect of a prescribed accounting period which has ended before the commencement of this Act, but shall have effect in any case where the last day referred to in subsection (1) of that section falls before 1st October 1993 subject to the following modifications—
- (a) for the words “a prescribed accounting period” in subsection (2)(a) there shall be substituted “any two prescribed accounting periods”;
  - (b) with the addition of the following paragraph in subsection (2)—
    - “(aa) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one; and”;
  - (c) for the words “period referred to in paragraph (a)” in subsection (2)(b) there shall be substituted “later period referred to in paragraph (aa)”;
  - (d) for the words “a default in respect of a prescribed accounting period and that period” in subsection (3) there shall be substituted “defaults in respect of two prescribed accounting periods and the second of those periods”.
- (3) Section 59 shall have effect, in any case where a person has been served with a surcharge liability notice and that person is in default in respect of a prescribed accounting period because of a failure of the Commissioners to receive a return or an amount of VAT on or before a day falling before 30th September 1993 with the omission of—
- (a) subsection (4)(b);
  - (b) the words in subsection (5) “and for which he has outstanding VAT”; and

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- (c) subsection (6).
- 15 (1) Section 63 does not apply in relation to returns and assessments made for prescribed accounting periods beginning before 1st April 1990 but subject to that shall have effect in relation to the cases referred to in the following sub-paragraphs subject to the modifications there specified.
- (2) Subsection (1) shall have effect in a case falling within paragraph (b) of that subsection where the assessment was made on or before 10th March 1992 with the substitution of “20 per cent.” for “ 15 per cent. ”.
- (3) In relation to any prescribed accounting period beginning before 1st December 1993 section 63 shall have effect with the substitution—
- (a) for the words in subsection (2) following “exceeds” of “ either 30 per cent. of the true amount of the VAT for that period or whichever is the greater of £10,000 and 5 per cent. of the true amount of VAT for that period. ” and with the omission of subsections (4) to (6); and
- (b) for the words in subsection (8) from “subsections” to “statements” of “ subsection (7) that the statement by each of those returns is a correct statement ”.
- (4) In relation to any prescribed accounting period beginning before 1st June 1994 section 63 shall have effect with the substitution for subsection (3) of the following subsection—
- “(3) Any reference in this section to the VAT for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of—
- (a) the amount (if any) by which credit for input tax for that period was overstated; and
- (b) the amount (if any) by which output tax for that period was understated;
- but if for any period there is an understatement of credit for input tax or an overstatement of output tax, allowance shall be made for that error in determining the VAT for that period which would have been so lost.”and in subsection (8) for “this section” there shall be substituted “ subsections (5) and (7) above ”.
- 16 (1) In relation to any prescribed accounting period beginning before 1st December 1993 section 64 shall have effect subject to the following modifications—
- (a) in subsection (1)(b) for the words from “whichever” to “period” there shall be substituted “ whichever is the greater of £100 and 1 per cent. of the true amount of VAT for that period ”;
- (b) for subsections (2) and (3) there shall be substituted—
- “(2) Subsection (3) below applies in any case where—
- (a) there is a material inaccuracy in respect of any two prescribed accounting periods, and
- (b) the last day of the later one of those periods falls on or before the second anniversary of the last day of the earlier one, and
- (c) after 29th July 1988 the Commissioners serve notice on the person concerned (“a penalty liability notice”) specifying as a penalty period for the purposes of this section a period

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beginning on the date of the notice and ending on the second anniversary of that date.

(3) If there is a material inaccuracy in respect of a prescribed accounting period ending within the penalty period specified in a penalty liability notice served on the person concerned that person shall be liable to a penalty equal to 15 per cent. of the VAT for that period which would have been lost if the inaccuracy had not been discovered.”;

(c) in subsection (4) for “(5)” there shall be substituted “ (7) ”; and

(d) in subsection (6) the words from “except” to the end shall be omitted.

(2) A penalty liability notice shall not be served under section 64 by reference to any material inaccuracy in respect of a prescribed accounting period beginning before 1st December 1993, and the penalty period specified in any penalty liability notice served before that day shall be deemed to end with the day before that day.

17 Section 70 shall not apply in relation to any penalty to which a person has been assessed before 27th July 1993 and in the case of any penalty in relation to which that section does not apply by virtue of this paragraph, section 60 shall have effect subject to the following modifications—

(a) in subsection (1) for “subsection (6)” there shall be substituted “ subsections (3A) and (6) ”;

(b) after subsection (3) there shall be inserted—

“(3A) If a person liable to a penalty under this section has co-operated with the Commissioners in the investigation of his true liability to tax or, as the case may be, of his true entitlement to any payment, refund or repayment, the Commissioners or, on appeal, a tribunal may reduce the penalty to an amount which is not less than half what it would have been apart from this subsection; and in determining the extent of any reduction under this subsection, the Commissioners or tribunal shall have regard to the extent of the co-operation which the person concerned has given to the Commissioners in their investigation.”;

(c) in subsection (4)(b) for the words from “under” to “this section” there shall be substituted “ to reduce a penalty under this section, as provided in subsection (4) above, and, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation ”;

and in section 61(6) for “70” there shall be substituted “ 60(3A) ”.

18 Section 74 shall not apply in relation to prescribed accounting periods beginning before 1st April 1990 and subsection (3) of that section shall not apply in relation to interest on amounts assessed or, as the case may be, paid before 1st October 1993.

#### *Importation of goods*

19 Nothing in this Act shall prejudice the effect of the <sup>M70</sup>Finance (No.2) Act 1992 (Commencement No.4 and Transitional Provisions) Order 1992 and accordingly—

(a) where Article 4 of that Order applies immediately before the commencement of this Act in relation to any importation of goods, that



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- Article and the legislation repealed by this Act shall continue to apply in relation to that importation as if this Act had not been enacted, and
- (b) where Article 5 of that Order applies in relation to any goods, this Act shall apply in relation to those goods in accordance with that Article and Article 6 of that Order.

**Marginal Citations**

M70 [S.I.1992/3261](#) (C.102).

*Assessments*

- 20 An assessment may be made under section 73 in relation to amounts paid or credited before the commencement of this Act but—
- (a) in relation to an amount paid or credited before 30th July 1990 section 73(2) shall have effect with the omission of the words from “or which” to “out to be”, and
- (b) in relation to amounts repaid or paid to any person before the passing of the <sup>M71</sup>Finance Act 1982 section 73 shall have effect with the omission of subsection (2).

**Marginal Citations**

M71 [1982 c.39](#).

*Set-off of credits*

- 21 Section 81 shall have effect in relation to amounts becoming due before 10th May 1994 with the omission of subsections (4) and (5).

*VAT tribunals*

- 22 (1) Without prejudice to paragraph 1 above, section 83 applies to things done or omitted to be done before the coming into force of this Act and accordingly references in Part V to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act or by any enactment repealed by such an enactment.
- (2) Section 84 shall have effect before such day as may be appointed for the purposes of section 18(3) of the <sup>M72</sup>Finance Act 1994 with the substitution for subsection (5) of the following subsection—
- “(5) No appeal shall lie with respect to any matter that has been or could have been referred to arbitration under section 127 of the Management Act as applied by section 16.”

**Marginal Citations**

M72 [1994 c. 9](#).

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### *Isle of Man*

- 23 Nothing in paragraph 7 of Schedule 14 shall affect the validity of any Order made under section 6 of the <sup>M73</sup>Isle of Man Act 1979 and, without prejudice to section 17 of the <sup>M74</sup>Interpretation Act 1978, for any reference in any such Order to any enactment repealed by this Act there shall be substituted a reference to the corresponding provision of this Act.

#### **Marginal Citations**

**M73** 1979 c. 58

**M74** 1978 c. 30.

## SCHEDULE 14

### CONSEQUENTIAL AMENDMENTS

#### **Extent Information**

**E3** Sch. 14 para. 7 extends to the Isle of Man.

#### *Diplomatic Privileges Act 1964 c.81*

- 1 In section 2(5A) of the Diplomatic Privileges Act 1964 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *Commonwealth Secretariat Act 1966 c.10*

- 2 In paragraph 10(1A) of the Commonwealth Secretariat Act 1966 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *Consular Relations Act 1968 c.18*

- 3 In section 1(8A) of the Consular Relations Act 1968 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

#### *International Organisations Act 1968 c.48*

- 4 In paragraph 19(c) of Schedule 1 to the International Organisations Act 1968 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

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*Diplomatic and other Privileges Act 1971 c.64*

- 5 In section 1(5) of the Diplomatic and other Privileges Act 1971 for “2A or 2B of the Value Added Tax Act 1983” there shall be substituted “ 10 or 15 of the Value Added Tax Act 1994 ”.

*Customs and Excise Management Act 1979 c.2*

- 6 In section 1(1) of the Customs and Excise Management Act 1979 for the definition of “free zone goods” there shall be substituted—

““free zone goods” are goods which are within a free zone;”.

*Isle of Man Act 1979 c.58*

- 7 (1) In section 1(1)(d) of the Isle of Man Act for “13 of the Value Added Tax Act 1983” there shall be substituted “ 23 of the Value Added Tax Act 1994 ”.

(2) In section 6 of that Act—

- (a) for “1983” in each place where it occurs there shall be substituted “ 1994 ”;
- (b) in subsection (2)(f) for “29” there shall be substituted “ 43 ”;
- (c) in subsection (4)(a) for “16(9)” there shall be substituted “ 30(10) ”;
- (d) in subsection (4)(b) for “Schedule 7” there shall be substituted “ Schedule 11 ”; and
- (e) in subsection (4)(c) for “39(3)” there shall be substituted “ 72(8) ”.

(3) In section 14(4)(b) for “section 33(2A) of the Finance Act 1972” there shall be substituted “ paragraph 5(3) of Schedule 11 to the Value Added Tax Act 1994 ”.

*Insolvency Act 1986 c.45*

F1717g .....

**Textual Amendments**

F1717Sch. 14 para. 8 repealed (15.9.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/2093, art. 2(1), [Sch. 2](#) (with [art. 4](#))

*Bankruptcy (Scotland) Act 1985 c.66*

F1718g .....

**Textual Amendments**

F1718Sch. 14 para. 9 repealed (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 2 Pt. 1](#)

*Income and Corporation Taxes Act 1988 c.1*

- 10 (1) The Income and Corporation Taxes Act 1988 shall be subject to the following amendments.

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(2) In section 827 for—

- (a) “Chapter II of Part I of the Finance Act 1985” there shall be substituted “Part IV of the Value Added Tax Act 1994 ”;
- (b) “13 to 17A” there shall be substituted “ 60 to 70 ”;
- (c) “18” and “19” there shall be substituted respectively “ 74 ” and “ 59 ”;
- (d) “20 of the Finance Act 1985” there shall be substituted “ 79 of that Act ”.

*Capital Allowances Act 1990 c.1*

F1719 11 .....

**Textual Amendments**

F1719Sch. 14 para. 11 repealed (22.3.2001 with effect as mentioned in s. 579(1)) of the amending Act) by 2001 c. 2, s. 580, [Sch. 4](#)

*Tribunals and Inquiries Act 1992 c.53*

F1720 12 .....

**Textual Amendments**

F1720Sch. 14 para. 12 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 229](#)

*Finance Act 1994 c.9*

13 In section 7 of the Finance Act 1994—

- [<sup>F1721</sup>(a) in subsection (4) for “25 and 29 of the Finance Act 1985” and “40 of the Value Added Tax Act 1983” there shall be substituted, respectively, “ 85 and 87 of the Value Added Tax Act 1994 ” and “ 83 of that Act ” ; ]
- (b) in subsection (5) for “8 to the Value Added Tax Act 1983” there shall be substituted “ 12 to the Value Added Tax Act 1994 ”.

**Textual Amendments**

F1721Sch. 14 para. 13(a) substituted (retrospectively) by 1995 c. 4, [s. 33\(5\)](#)

*Vehicle Excise and Registration Act 1994 c.22*

14 In paragraph 23 of Schedule 2 to the Vehicle Excise and Registration Act 1994—

- (a) for “2C of the Value Added Tax Act 1983” there shall be substituted “ 3 of the Value Added Tax Act 1994 ”;
- (b) for “(7) of section 16” there shall be substituted “ (8) of section 30 ”; and
- (c) for “subsection (9)” there shall be substituted “ subsection (10) ”.

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## SCHEDULE 15

### REPEALS

#### *Acts of Parliament*

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1979 c.2.	Customs and Excise Management Act 1979	Sections 100B and 100C.
1983 c.55.	Value Added Tax Act 1983	The whole Act.
1984 c.24.	Dentists Act 1984	In Schedule 5, paragraph 16.
1984 c.43.	Finance Act 1984	Sections 10 to 13. Schedule 6.
1984 c.51.	Inheritance Tax Act 1984	In Schedule 8, paragraph 24.
1984 c.60.	Police and Criminal Evidence Act 1984	In Schedule 6, paragraph 41.
1985 c.54.	Finance Act 1985	Sections 11 to 33. Schedules 6, 7 and 8. In Schedule 26, paragraph 14.
1986 c.41.	Finance Act 1986	Sections 9 to 15. Schedule 6.
1987 c.16.	Finance Act 1987	Sections 11 to 19. Schedule 2.
1987 c.18.	Debtors (Scotland) Act 1987	In Schedule 4, paragraph 4.
1988 c.39.	Finance Act 1988	Sections 13 to 22.
1988 c.54.	Road Traffic (Consequential Provisions) Act 1988	In Schedule 3, paragraph 32.
1989 c.26.	Finance Act 1989	Sections 18 to 26. Schedule 3.
1989 c.40.	Companies Act 1989	In Schedule 18, paragraph 27.
1989 c.44.	Opticians Act 1989	Section 37(3).
1990 c.11.	Planning (Consequential Provisions) Act 1990	In Schedule 2, paragraph 61.
1990 c.19.	National Health Service and Community Care Act 1990	Section 61(4). In Schedule 8, paragraph 9.
1990 c.29.	Finance Act 1990	Sections 10 to 16.
1990 c.41.	Courts and Legal Services Act 1990	In Schedule 10, paragraph 52.

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1990 c.42.	Broadcasting Act 1990	In Schedule 20, paragraph 37.
1991 c.21.	Disability Living Allowance and Disability Working Allowance Act 1991	In Schedule 2, paragraph 13.
1991 c.31.	Finance Act 1991	Sections 13 to 18.
1992 c.12.	Taxation of Chargeable Gains Act 1992	In Schedule 10, paragraph 6.
1992 c.20.	Finance Act 1992	Sections 6 and 7.
1992 c.48.	Finance (No.2) Act 1992	Sections 14(1) and (3) to (6). Sections 15 to 17. Schedule 3, Parts I and II.
1992 c.52.	Trade Union and Labour Relations (Consolidation) Act 1992	In Schedule 2, paragraph 32.
1992 c.53.	Tribunals and Inquiries Act 1992	In Schedule 3, paragraph 17.
1993 c.8.	Judicial Pensions and Retirement Act 1993	In Schedule 6, paragraph 35.  In Schedule 8, paragraph 16.
1993 c.34.	Finance Act 1993	Sections 42 to 50. Schedule 2.
1994 c.9	Finance Act 1994	Section 7(1) and (2).  In section 18(3) the words from “and for” to the end. Sections 45 and 47.
1994 c.22	Vehicle Excise and Registration Act 1994	In Schedule 3, paragraph 21.

#### *Statutory Instruments*

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
S.I.1980/440	Value Added Tax (Fuel and Power) Order 1980	The whole Order.
S.I.1983/1717	Value Added Tax (Charities Etc.) Order 1983	The whole Order.
S.I.1984/489	Value Added Tax (Handicapped Persons) Order 1984	The whole Order.
S.I.1984/631	Value Added Tax (Lifeboats) Order 1984	The whole Order.

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S.I.1984/766	Value Added Tax (Charities Etc.) Order 1984	The whole Order.
S.I.1984/767	Value Added Tax (Marine etc. Insurance) Order 1984	The whole Order.
S.I.1984/959	Value Added Tax (Handicapped Persons) (No.2) Order 1984	The whole Order.
S.I.1984/1784	Value Added Tax (Optical Appliances) Order 1984	The whole Order.
S.I.1985/18	Value Added Tax (Protected Buildings) Order 1985	The whole Order.
S.I.1985/431	Value Added Tax (Charities Etc.) Order 1985	The whole Order.
S.I.1985/432	Value Added Tax (Finance) Order 1985	The whole Order.
S.I.1985/799	Value Added Tax (Hiring of Goods) Order 1985	The whole Order.
S.I.1985/919	Value Added Tax (Handicapped Persons) Order 1985	Article 3.
S.I.1985/1900	Value Added Tax (Welfare) Order 1985	The whole Order.
S.I.1986/530	Value Added Tax (Handicapped Persons and Charities) Order 1986	The whole Order.
S.I.1987/437	Value Added Tax (Charities) Order 1987	The whole Order.
S.I.1987/517	Value Added Tax (Betting, Gaming and Lotteries) Order 1987	The whole Order.
S.I.1987/518	Value Added Tax (International Services) Order 1987	The whole Order.
S.I.1987/1072	Value Added Tax (Construction of Buildings) (No.2) Order 1987	Article 2.
S.I.1987/860	Value Added Tax (Finance) Order 1987	The whole Order.
S.I.1987/1259	Value Added Tax (Education) Order 1987	The whole Order.
S.I.1987/1806	Value Added Tax (Tour Operators) Order 1987	Article 11.

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S.I.1988/507	Value Added Tax (Confectionery) Order 1988	The whole Order.
S.I.1988/1282	Value Added Tax (Training) Order 1988	The whole Order.
S.I.1989/267	Value Added Tax (Education) Order 1989	The whole Order.
S.I.1989/470	Value Added Tax (Fund- Raising Events and Charities) Order 1989	The whole Order.
S.I.1989/2272	Value Added Tax (Finance, Health and Welfare) Order 1989	The whole Order.
S.I.1990/682	Value Added Tax (Increase of Registration Limits) Order 1990	The whole Order.
S.I.1990/750	Value Added Tax (Charities) Order 1990	The whole Order.
S.I.1990/752	Value Added Tax (Transport) Order 1990	The whole Order.
S.I.1990/2037	Value Added Tax (Insurance) Order 1990	The whole Order.
S.I.1990/2129	Value Added Tax (Charities) (No.2) Order 1990	The whole Order.
S.I.1990/2553	Value Added Tax (Construction of Dwellings and Land) Order 1990	The whole Order.
S.I.1991/737	Value Added Tax (Charities) Order 1991	The whole Order.
S.I.1991/738	Value Added Tax (Increase of Registration Limits) Order 1991	The whole Order.
S.I.1991/2534	Value Added Tax (Piped Gas) (Metrication) Order 1991	The whole Order.
S.I.1991/2569	Value Added Tax (Buildings and Land) Order 1991	The whole Order.
S.I.1992/628	Value Added Tax (Charities and Aids for Handicapped Persons) Order 1992	The whole Order.
S.I.1992/629	Value Added Tax (Increase of Registration Limits) Order 1992	The whole Order.
S.I.1992/733	Value Added Tax (Increase for Consideration for Fuel) Order 1992	The whole Order.



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S.I.1992/3065	Value Added Tax (Motor Vehicles for the Handicapped) Order 1992	The whole Order.
S.I.1992/3126	Value Added Tax (Transport) Order 1992	The whole Order.
S.I.1992/3127	Value Added Tax (Means of Transport) Order 1992	The whole Order.
S.I.1992/3131	Value Added Tax (Tax Free Shops) Order 1992	The whole Order.
S.I.1992/3223	Value Added Tax (International Services and Transport) Order 1992	The whole Order.
S.I.1993/765	Value Added Tax (Increase for Consideration for Fuel) Order 1993	The whole Order.
S.I.1993/766	Value Added Tax (Increase of Registration Limits) Order 1993	The whole Order.
S.I.1993/767	Value Added Tax (Protective Boots and Helmets) Order 1993	The whole Order.
S.I.1993/1124	Value Added Tax (Education) (No.2) Order 1993	The whole Order.
S.I.1993/2214	Finance Act 1993 (Appointed Day) Order 1993	The whole Order.
S.I.1993/2328	Value Added Tax (Reverse Charge) Order 1993	The whole Order.
S.I.1993/2498	Value Added Tax (Beverages) Order 1993	The whole Order.
S.I.1993/2498	Value Added Tax (Beverages) Order 1983	The whole Order.
S.I.1993/2952	Value Added Tax (Increase of Consideration for Fuel) (No.2) Order 1993	The whole Order.
S.I.1993/2953	Value Added Tax (Increase of Registration Limits) (No.2) Order 1993	The whole Order.
S.I.1994/686	Value Added Tax (Tax Free Shops) Order 1994	The whole Order.
S.I.1994/687	Value Added Tax (Sport, Physical Education and Fund-Raising Events) 1994	The whole Order.
S.I.1994/1188	Value Added Tax (Education) Order 1994	The whole Order.

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## TABLE OF DERIVATIONS

### Notes:

- 1 This Table shows the derivation of the provisions of the Bill.
- 2 The following abbreviations are used in the Table:—

### *Acts of Parliament*

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CEMA	= Customs and Excise Management Act 1979 c.2
1984	= Finance Act 1984 c.43
PACE	= Police and Criminal Evidence Act 1984 c.60
1985	= Finance Act 1985 c.54
1986	= Finance Act 1986 c.41
1987	= Finance Act 1987 c.16
1988	= Finance Act 1988 c.39
1989	= Finance Act 1989 c.26
1990	= Finance Act 1990 c.29
CLSA	= Courts and Legal Services Act 1990 c.41
DLA	= Disability Living Allowance and Disability Working Allowance Act 1991 c.21
1991	= Finance Act 1991 c.31
1992	= Finance Act 1992 c.20
1992(2)	= Finance (No.2) Act 1992 c.48
JPRA	= Judicial Pensions and Retirement Act 1993 c.8
1993	= Finance Act 1993 c.34
1994	= Finance Act 1994 c.9

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### *Subordinate legislation*

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S.I.1983/1717	= The Value Added Tax (Charities Etc.) Order 1983
S.I.1984/489	= The Value Added Tax (Handicapped Persons) Order 1984
S.I.1984/631	= The Value Added Tax (Lifeboats) Order 1984

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S.I.1984/766	= The Value Added Tax (Charities Etc.) Order 1984
S.I.1984/767	= The Value Added Tax (Marine etc. Insurance) Order 1984
S.I.1984/959	= The Value Added Tax (Handicapped Persons) (No.2) Order 1984
S.I.1985/18	= The Value Added Tax (Protected Buildings) Order 1985
S.I.1985/431	= The Value Added Tax (Charities Etc.) Order 1985
S.I.1985/432	= The Value Added Tax (Finance) Order 1985
S.I.1985/799	= The Value Added Tax (Hiring of Goods) Order 1985
S.I. 1985/919	= The Value Added Tax (Handicapped Persons) Order 1985
S.I.1985/1900	= The Value Added Tax (Welfare) Order 1985
S.I.1986/530	= The Value Added Tax (Handicapped Persons and Charities) Order 1986
S.I.1987/437	= The Value Added Tax (Charities) Order 1987
S.I.1987/517	= The Value Added Tax (Betting, Gaming and Lotteries) Order 1987
S.I. 1987/860	= The Value Added Tax (Finance) Order 1987
S.I.1987/1806	= The Value Added Tax (Tour Operators) Order 1987
S.I.1987/1427	= Value Added Tax (Cash Accounting) Regulations 1987
S.I.1988/507	= The Value Added Tax (Confectionary) Regulations 1988
S.I.1989/470	= The Value Added Tax (Fund-Raising Events and Charities) Order 1989
S.I.1989/2272	= The Value Added Tax (Finance, Health and Welfare) Order 1989
S.I.1990/750	= The Value Added Tax (Charities) Order 1990
S.I.1990/752	= The Value Added Tax (Transport) Order 1990
S.I.1990/2037	= The Value Added Tax (Insurance) Order 1990

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S.I.1990/2129	= The Value Added Tax (Charities) (No.2) Order 1990
S.I.1990/2553	= The Value Added Tax (Construction of Dwellings and Land) Order 1990
S.I.1991/737	= The Value Added Tax (Charities) Order 1991
S.I.1991/2534	= The Value Added Tax (Piped Gas) (Metrication) Order 1991
S.I.1991/2569	= The Value Added Tax (Buildings and Land) Order 1991
S.I.1991/2727	= Free Zone Regulations 1991
S.I.1992/628	= The Value Added Tax (Charities and Aids for Handicapped Persons) Order 1992
S.I.1992/3065	= The Value Added Tax (Motor Vehicles for the Handicapped) Order 1992
S.I.1992/3095	= Customs and Excise (Single Market etc.) Regulations 1992
S.I.1992/3126	= The Value Added Tax (Transport) Order 1992
S.I.1992/3127	= The Value Added Tax (Means of Transport) Order 1992
S.I.1992/3128	= The Value Added Tax (Reverse Charge) Order 1992
S.I.1992/3131	= The Value Added Tax (Tax Free Shops) Order 1992
S.I.1992/3223	= The Value Added Tax (International Services and Transport) Order 1992
S.I.1993/765	= The Value Added Tax (Increase for Consideration for Fuel) Order 1993
S.I.1993/766	= The Value Added Tax (Increase of Registration Limits) Order 1993
S.I.1993/767	= The Value Added Tax (Protective Boots and Helmets) Order 1993
S.I.1993/2328	= The Value Added Tax (Reverse Charge) Order 1993
S.I.1993/2498	= The Value Added Tax (Beverages) Order 1993
S.I.1993/2952	= Value Added Tax (Increase of Consideration for Fuel) (No.2) Order 1993
S.I.1993/2953	= Value Added Tax (Increase of Registration Limits) (No.2) Order 1993

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S.I.1994/686	= Value Added Tax (Tax Free Shops) Order 1994
S.I.1994/687	= Value Added Tax (Sport, Physical Education and Fund-raising Events) Order 1994
S.I.1994/1188	= Value Added Tax (Education) Order 1994

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<b>Provision</b>	<b>Derivation</b>
1(1)	1983 s.1; amended 1992(2) Sch.3 para.2.
(2)	1983 s.2(3).
(3)	1983 s.2A(4); added 1992(2) Sch.3 para.3.
(4)	1983 s.2B(1); added 1992(2) Sch.3 para.3.
2	1983 s.9; amended 1991 s.13; 1992(2) Sch.3 para.11; 1993 s.42(2).
3	1983 s.2C; added 1992(2) Sch.3 para.3.
4	1983 s.2(1), (2).
5	1983 s.3; amended 1992(2) Sch.3 para.4.
6(1) to (3)	1983 s.4
(4) to (6)	1983 s.5(1) to (3)
(7), (8)	1983 s.5(3A), (3B); added 1992(2) Sch.3 para.6(1).
(9) to (13)	1983 s.5(4) to (8).
(14)	1983 s.5(9); amended 1993 s.45(2).
(15)	1983 s.5(10); amended 1992(2) Sch.3 para.6(3).
7(1), (2)	1983 s.6(1), (2); 1987 s.12(2); 1992(2) Sch.3 para.7(1), (2); 1993 s.44(3).
(3) to (7)	1983 s.6(2A), (2B), (2C), (2D), (3); 1992(2) Sch.3 para.7(3).
(8)	1983 s.6(4); 1992(2) Sch.3 para.7(4).
(9)	1983 s.6(4A); 1992(2) Sch.3 para.7(5).
(10)	1983 s.6(5).
(11)	1983 s.6(6); 1992(2) Sch.3 para.7(6).
8(1) to (5)	1983 s.7(1) to (5); 1987 Sch.2 para.1.
(6)	1983 s.7(6); 1992(2) Sch.3 para.8.
9	1983 s.8.
10	1983 s.2A(1) to (3); added 1992(2) Sch.3 para.3.

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11	1983 s.8A; added 1992(2) Sch.3 para.10.
12	1983 s.8B; added 1992(2) Sch.3 para.10.
13	1983 s.8C; added 1992(2) Sch.3 para.10; amended 1993 s.44(3)(b).
14	1983 s.8D; added 1993 s.44.
15	1983 s.2B(2) to (4); added 1992(2) Sch.3 para.3.
16(1)	1983 s.24(1); substituted 1992(2) Sch.3 para.25.
(2)	1983 s.24(2).
17(1)	1983 s.24(1); substituted 1992(2) Sch.3 para.25.
(2)	CEMA s.100C(1); 1984 Sch.4 Pt.I; S.I.1991/2727.
(3)	CEMA s.100B; 1984 Sch.4 Pt.I; S.I.1991/2727.
(4)	CEMA s.100C(3), (4); 1984 Sch.4 Pt.I; S.I.1991/2727.
18	1983 s.35; substituted 1992(2) Sch.3 para.35.
19	1983 s.10; amended 1992(2) Sch.3 para.12.
20	1983 s.10A; added 1992(2) Sch.3 para.13.
21(1), (2)	1983 s.11(1), (2); amended 1992(2) Sch.3 para.14.
(3)	1983 s.11(2A); added 1992(2) Sch.3 para.14.
22	1983 s.12.
23	1983 s.13.
24(1), (2)	1983 s.14(3); amended and para.(aa) added 1992(2) Sch.3 para.15(2).
(3)	1983 s.14(3A); added 1990 s.12(2); amended 1992(2) Sch.3 para.15(3).
(4)	1983 s.14(3B); added 1991 s.14.
(5)	1983 s.14(4); amended 1992(2) Sch.3 para.15(4).
(6)	1983 s.14(9); amended 1992(2) Sch.3 para.15(5), (6).
(7)	1983 s.14(11); added 1990 s.12(3).
25(1), (2)	1983 s.14(1), (2); amended 1992(2) Sch.3 para.15(1).
(3) to (6)	1983 s.14(5) to (8).

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(7)	1983 s.14(10); amended 1992(2) Sch.3 para.15(5), (6).
26(1) to (3)	1983 s.15(1) to (3); substituted 1987 s.12(1); subs.(3)(d) added 1989 s.26; amended and subs.(2)(ba) added 1992(2) Sch.3 para.16.
(4)	1983 s.15(4)
27	1983 s.26; amended 1992(2) Sch.3 para.27.
28	1983 s.38C; added 1992 s.6.
29	1988 s.22.
30(1), (2)	1983 s.16(1), (2).
(3)	1983 s.16(3); amended 1992(2) Sch.3 para.17(1).
(4)	1983 s.16(4).
(5)	1983 s.16(5).
(6)	1983 s.16(6); amended 1986 s.12(1); 1992(2) Sch.3 para.17(2).
(7)	1983 s.16(6A); added 1990 s.13.
(8), (9)	1983 s.16(7), (8); amended 1992(2) Sch.3 para.17(3).
(10)	1983 s.16(9); amended 1986 s.12(2).
31	1983 s.17; amended 1992(2) Sch.3 para.18.
32	1983 s.18; amended 1992(2) Sch.3 para.19.
33(1), (2)	1983 s.20(1), (2); amended 1992(2) Sch.3 para.21.
(3)	1983 s.20(3); para.(j) substituted Broadcasting Act 1990 c.42 Sch.20 para.37.
(4)	1983 s.20(4).
(5)	1983 s.20(4A); added Broadcasting Act 1990 c.42 Sch.20 para.37.
(6)	1983 s.20(5).
34	1983 s.36; amended 1992(2) Sch.3 para.36.
35(1), (2)	1983 s.21(1), (2); substituted 1989 Sch.3 para.5; amended 1992(2) Sch.3 para.23(1).
(3)	1983 s.21(2A); added 1992(2) Sch.3 para.23(2).
36	1990 s.11; amended 1991 s.15; 1993 s.48.
37(1)	1983 s.19(1); amended 1992(2) Sch.3 para.20(1).

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(2)	1983 s.19(1A); added 1986 s.13; amended 1992(2) Sch.3 para.20(2).
(3), (4)	1983 s.19(2); amended 1992(2) Sch.3 para.20(3), (4).
38	1983 s.25; amended 1992(2) Sch.3 para.26.
39	1983 s.23; amended 1987 Sch.2 para.2; 1992(2) Sch.3 para.24.
40	1983 s.20A; added 1992(2) Sch.3 para.22.
41(1), (2)	1983 s.27(1), (2).
(3), (4)	1983 s.27(2A), (2B); added 1984 s.11; amended 1992(2) Sch.3 para.28.
(5)	1983 s.27(3).
(6)	1983 s.27(4); amended National Health Service and Community Care Act 1990 (c.19) Sch.8 para.9; Health and Personal Social Services (Northern Ireland Consequential Amendments) Order 1991 S.I.195 Art.5.
(7)	1983 s.27(5); added National Health Service and Community Care Act 1990 (c.19) s.61(4).
(8)	1983 s.27(6); added Health and Personal Social Services (Northern Ireland Consequential Amendments) Order 1991 S.I.195 Art.5.
42	1983 s.28; amended 1990 s.10(8).
43(1)	1983 s.29(1); amended 1992(2) Sch.3 para.29.
(2)	1983 s.29(2)
(3)	1983 s.29(3), (3A); added 1991 s.16.
(4) to (8)	1983 s.29(4) to (8); amended Companies Consolidation (Consequential Provisions) Act 1985 (c.9) Sch.2; Companies Act 1989 (c.40) Sch.18 para.27.
44(1), (2), (3)	Section 29A added 1987 s.15; s.29A(1), (2) amended 1990 s.14(2); 1992(2) Sch.3 para.30(1), (2).
(4)	1983 s.29A(3A); added 1990 s.14(3).
(5) to (10)	1983 s.29A(4) to (9); amended 1992(2) Sch.3 para.30(3).
45	1983 s.30; amended 1992(2) Sch.3 para.31.



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46(1) to (4)	1983 s.31(1) to (4); amended 1992(2) Sch.3 para.32(1).
(5)	1983 s.31(5); added 1985 s.31.
(6)	1983 s.31(6); added 1992(2) Sch.3 para.32(2).
47(1)	1983 s.32(2); substituted 1992(2) Sch.3 para.33.
(2), (3)	1983 s.32(3), (4).
48	1983 s.32A; added 1992(2) Sch.3 para.34.
49	1983 s.33.
50	1983 s.34.
51	1983 s.35A; added 1989 Sch.3 para.6.
52	1983 s.37; substituted 1992(2) Sch.3 para.37.
53	1983 s.37A; added 1987 s.16.
54	1983 s.37B; added 1992(2) s.16.
55	1983 s.37C; added 1993 s.45.
56(1), (2)	1986 s.9(1), (2).
(3)(a)	1986 s.9(3)(a).
(b)	1986 s.9(3)(aa); added 1992(2) Sch.3 para.94.
(c) to (e)	1986 s.9(3)(b) to (d).
(4)	1986 s.9(4).
(5)	1986 s.9(5); amended 1992(2) Sch.3 para.94.
(6) to (10)	1986 s.9(6) to (10); amended Road Traffic (Consequential Provisions) Act 1988 (c.54) Sch.3 para.32.
57(1)	1986 Sch.6 para.1.
(2), (3)	1986 Sch.6 para.2; Table A substituted S.I.1993/765; amended S.I.1993/2952.
(4)	1986 Sch.6 para.4; amended 1993 s.43(3).
(5)	1986 Sch.6 para.5(1); amended 1993 s.43(2) (a), (b).
(6)	1986 Sch.6 para.5(2).
(7)	1986 Sch.6 para.6(1); amended 1993 s.43(2) (c).
(8)	1986 Sch.6 para.6(2); amended 1993 s.43(2) (d).
58	1983 s.38; amended 1992(2) Sch.3 para.38.

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59(1)	1985 s.19(1).
(2)	1985 s.19(2)(a), (c); amended 1993 Sch.2 para.5(1).
(3)	1985 s.19(3); amended 1993 Sch.2 para.5(2).
(4)	1985 s.19(4); substituted 1993 Sch.2 para.6(1).
(5)	1985 s.19(5); amended 1993 Sch.2 para.6(2),7.
(6)	1985 s.19(5A); added 1993 Sch.2 para.6(3).
(7) to (10)	1985 s.19(6) to (9).
(11)	1993 Sch.2 para.5(3),7(2), (4).
60(1)	1985 s.13(1); amended 1993 Sch.2 para.3(2) (a).
(2)(a)	1985 s.13(2)(ba); added 1992(2) Sch.3 para.77(1)(b).
(b)	1985 s.13(2)(a).
(c)	1985 s.13(2)(b); amended 1992(2) Sch.3 para.77(1)(a).
(d)	1985 s.13(2)(d); added 1990 s.11(12).
(e)	1985 s.13(2)(c).
(3)	1985 s.13(3).
(4) to (6)	1985 s.13(5) to (7).
(7)	1985 s.27(1).
61(1) to (5)	1986 s.14(1) to (5).
(6)	1986 s.14(8).
62	1985 s.13A; added 1989 s.23.
63(1)	1985 s.14(1); amended 1992 s.7(1).
(2)	1985 s.14(2); substituted 1988 s.16(2); amended 1993 Sch.2 para.1.
(3)	1985 s.14(4); amended 1988 s.16(3); 1994 s.45.
(4) to (6)	1985 s.14(4A), (4B), (4C); added 1993 Sch.2 para.1(2).
(7)	1985 s.14(5); amended 1988 s.16(4).
(8), (9)	1985 s.14(5A), (5B); added 1988 s.16(5); amended 1992(2) Sch.3 para.78; 1993 Sch.2 para.1(3); 1994 s.45.
(10), (11)	1985 s.14(6), (7).
64	1985 s.14A; added 1988 s.17.

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(1)	1985 s.14A(1); amended 1993 Sch.2 para.2(1).
(2), (3)	1985 s.14A(2), (3); substituted 1993 Sch.2 para.2(2).
(4)	1985 s.14A(4); amended 1993 Sch.2 para.2(3).
(5)	1985 s.14A(5).
(6)	1985 s.14A(6); amended 1993 Sch.2 para.2(4).
(7)	1985 s.14A(7).
65	1985 s.14B; added 1992(2) Sch.3 para.79.
66	1985 s.17A(1) to (8), (10); added 1992(2) Sch.3 para.82.
67(1)	1985 s.15(1)(a), (aa), (b); amended 1988 s.18(1); 1992(2) Sch.3 para.80(1).
(2)	1985 s.15(2).
(3)	1985 s.15(3); amended 1988 s.18(2); 1992(2) Sch.3 para.80(2).
(4)	1985 s.15(3A); added 1988 s.18(3); amended 1992(2) Sch.3 para.80(3).
(5), (6)	1985 s.15(3B), (3C); added 1992(2) Sch.3 para.80(4).
(7)	1985 s.15(3D); added 1992(2) s.16(5).
(8) to (11)	1985 s.15(4) to (7).
68	1985 s.16.
69(1)	1985 s.17(1); amended 1988 s.19(1)(b).
(a)	1985 s.17(1)(a); amended 1988 s.19(1)(a); 1992(2) Sch.3 para.81(a).
(b)	1985 s.17(1)(aa); added 1992(2) Sch.3 para.81(b).
(c), (d),	1985 s.17(1)(b), (c).
(e), (f)	1985 s.17(1)(d), (e); added 1986 s.15(1).
(2)	1985 s.17(2).
(3)	1985 s.17(3); amended 1988 s.19(2).
(4)	1985 s.17(4)(a), (c) to (e).
(5) to (9)	1985 s.17(5) to (7), (9), (10).
(10)	
70	1985 s.15A; added 1993 Sch.2 para.3(1).
71	1985 s.33(2), (3).

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72(1)	1983 s.39(1); amended 1985 s.12(2).
(2)	1983 s.39(1A); added 1985 s.12(3); para.(ba) added 1992(2) Sch.3 para.39(1)(b); amended 1990 s.11(11)(a); 1992(2) Sch.3 para.39(1)(a).
(3)	1983 s.39(2); amended 1985 s.12(2), (4).
(4) to (7)	1983 s.39(2A), (2B), (2C), (2D); added 1985 s.12(5); amended 1992(2) Sch.3 para.39(2).
(8)	1983 s.39(3); amended 1985 s.12(2).
(9)	1983 s.39(3A); added 1985 s.12(6).
(10)	1983 s.39(4); amended 1992(2) Sch.3 para.39(3).
(11)	1983 s.39(5).
(12)	1983 s.39(9); 1985 s.33(5)(a).
(13)	1985 s.33(5)(a); amended 1992(2) Sch.3 para.86.
73(1)	1983 Sch.7 para.4(1).
(2), (3)	1983 Sch.7 para.4(2), (2A); substituted 1988 s.15(2); amended 1990 s.15(1); 1992(2) Sch.3 para.66(1).
(4), (5)	1983 Sch.7 para.4(3), (4); Bankruptcy (Scotland) Act 1985 (c.66) s.75(11).
(6)	1983 Sch.7 para.4(5); amended 1988 s.15(3); 1992(2) Sch.3 para.66(2).
(7)	1983 Sch.7 para.4(6); amended 1985 Sch.7 para.1(2); 1992(2) Sch.3 para.66(3).
(8)	1983 Sch.7 para.4(6A); added 1985 Sch.7 para.1(3).
(9), (10)	1983 Sch.7 para.4(9), (10); amended 1988 s.15(4); Bankruptcy (Scotland) Act 1985 (c.66) s.75(11).
74(1)	1985 s.18(1); amended 1988 s.14(8)(b); 1990 s.16(2); 1992(2) Sch.3 para.83; 1993 Sch.2 para.4(1).
(2)	1985 s.18(3); amended 1990 s.16(3); 1993 Sch.2 para.4(1).
(3)	1985 s.18(3A); added 1993 Sch.2 para.4(2), (3).
(4) to (7)	1985 s.18(6), (7), (8)(a), (b), (9); amended 1990 s.16(5).
(8)	1993 Sch.2 para.4(3).

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75	1983 Sch.7 para.4A; added 1992(2) Sch.3 para.67; amended Bankruptcy (Scotland) Act 1985 (c.66) s.75(11).
76(1)	1985 s.21(1); amended 1988 s.19(3); 1992(2) Sch.3 para.84(1).
(2)	1985 s.21(1A); added 1988 s.19(3);.
(3) to (5)	1985 s.21(2) to (4).
(6)	1985 s.21(4A); added 1992(2) Sch.3 para.84(2).
(7) to (10)	1985 s.21(5) to (8); amended 1992(2) Sch.3 para.84(3), (4); Bankruptcy (Scotland) Act 1985 (c.66) s.75(11).
77	1985 s.22(1) to (5), (6); amended 1992(2) Sch.3 para.85.
78	1983 s.38A; added 1991 s.17
(1) to (8)	1983 s.38A(1) to (8).
(9)	1983 s.38A(8A); added 1992(2) s.15(2).
(10) to (12)	1983 s.38A(9) to (11).
(13)	1983 s.38A(12); 1992(2) s.15(4).
79(1) to (3)	1985 s.20(1) to (3); substituted 1988 s.20; 1994 s.46.
(4)	1985 s.20(3A); added 1992(2) s.15(1).
(5) to (7)	1985 s.20(4), (5), (7); substituted 1988 s.20.
80	1989 s.24; S.I.1989/2271.
81(1), (2)	1983 s.38B; added 1991 s.17.
(3) to (5)	1988 s.21; amended 1994 s.45.
82(1)	1983 s.40(1), Sch.8 para.1; 1985 s.30(1).
(2)	1983 s.40; 1994 s.7(1)
(3), (4)	1985 Sch.8 para.6.
83(a)	1983 s.40(1)(a).
(b)	1983 s.40(1)(b); amended 1992(2) Sch.3 para.40(a).
(c)	1983 s.40(1)(c).
(d)	1983 s.40(1)(fa); added 1992(2) Sch.3 para.40(c).
(e)	1983 s.40(1)(d); substituted 1987 Sch.2 para.4.
(f)	1983 s.40(1)(g).
(g)	1983 s.40(1)(e).

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(h)	1983 s.40(1)(f); amended 1990 s.11(11)(b).
(j)	1983 s.40(1)(da); added 1992(2) Sch.3 para.40(b).
(k)	1983 s.40(1)(h).
(l)	1983 s.40(1)(n); amended 1992(2) Sch.3 para.40(f).
(m)	1983 s.40(1)(hza); added 1992(2) s.16(2).
(n)	1983 s.40(1)(o); added 1985 s.24(1); amended 1992(2) Sch.3 para.40(g).
(o)	1986 s.14(6).
(p)	1983 s.40(1)(m); amended 1992(2) Sch.3 para.40(e).
(q), (r)	1983 s.40(1)(p), (q); added 1985 s.24(1).
(s)	1983 s.40(1)(ha); added 1991 s.17(1).
(t)	1983 s.40(1)(s); added 1989 s.24(9).
(u)	1983 s.40(1)(hh); added 1986 s.10(2).
(v)	1983 s.40(1)(j).
(w)	1983 s.40(1)(ja); added 1992(2) Sch.3 para.40(d).
(x)	1983 s.40(1)(k).
(y)	1983 s.40(1)(r); added S.I.1987/1427 reg.11.
(z)	1983 s.40(1)(l).
84(1)	
(2)	1983 s.40(2); amended 1985 s.24(3).
(3)	1983 s.40(3); amended 1985 s.24(4).
(4)	1983 s.40(3ZA); added 1993 s.46(1).
(5)	1983 s.40(3B); added (as (3A)) 1985 s.24(5); amended 1986 s.10(3).
(6)	1983 s.40(1A); added 1985 s.24(2) and amended 1993 Sch.2 para.3(2)(b); 1986 s.14(6).
(7)	1983 s.40(3A); added 1986 s.10(3).
(8) to (10)	1983 s.40(4) to (6); amended 1994 s.18(3).
(11)	1993 s.46(2).
85	1985 s.25.
86	1985 s.26(1), (2)(a), (3); amended Tribunals and Inquiries Act 1992 (c.53) Sch.3 para.17.
87	1985 s.29.

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88(1)	1983 s.41(1); amended 1992(2) Sch.3 para.41(1).
(2), (3)	1983 s.41(2), (3).
(4)	1983 s.41(3A); added 1992(2) Sch.3 para.41(2).
(5), (6)	1983 s.41(4), (5).
(7)	1983 s.41(6); added 1992(2) Sch.3 para.41(3).
89(1)	1983 s.42(1).
(2)	1983 s.42(1A); added 1989 Sch.3 para.7(1).
(3)	1983 s.42(2); amended 1989 Sch.3 para.7(2).
90	1983 s.43; amended 1992(2) Sch.3 para.42.
91	1983 s.44; amended Transfer of Functions (Economic Statistics) Order 1989 S.I.1989/992.
92	1983 s.46A; amended 1992(2) Sch.3 para.44.
93	1983 s.46B; amended 1992(2) Sch.3 para.44.
94	1983 s.47.
95(1)	1983 s.47A(1); added 1992(2) Sch.3 para.45.
(2)	1983 s.47A(1A); added S.I. 1992/3127.
(3) to (5)	1983 s.47A(2) to (4); added 1992(2) Sch.3 para.45.
96(1)	1983 s.48(1); amended 1987 s.13; 1989 Sch.3 para.9; 1992(2) Sch.3 para.46(1).
(2)	1983 s.48(9); added 1992(2) Sch.3 para.46(4).
(3)	1983 s.48(1A); added 1992(2) Sch.3 para.46(2).
(4)	1983 s.20(6).
(5)	1983 s.48(1B); added 1992(2) Sch.3 para.46(2).
(6), (7)	1983 s.48(4)
(8) to (11)	1983 s.48(5) to (8); amended 1992(2) Sch.3 para.46.
97(1)	1983 s.45(1).
(2)	1985 s.26(2)(b), 27(3)(c).
(3), (4)	1983 s.45(3), (4); amended 1987 s.16(2); 1992 s.6(2); para.(d) added 1989 Sch.3 para.8; para.(e) added 1992(2) s.16(3).

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(5)	1983 s.45(2); 1985 s.15(8), 17(8), 17A(9), 18(8).
98	1983 s.46; amended 1992(2) Sch.3 para.43.
99	1983 s.49; amended 1992(2) Sch.3 para.47.
100	
101	
102	
Schedule 1	
para.1(1) to (4)	1983 Sch.1 para.1(1) to (4); substituted 1987 s.14(2); 1990 s.10(2), (3); amended 1992(2) Sch.3 para.48; S.I.1993/766; S.I.1993/2953.
(5), (6)	1983 Sch.1 para.1(4A), (4B); added 1992(2) Sch.3 para.48.
(7)	1983 Sch.1 para.1(5); substituted 1987 s.14(2); amended 1988 s.14(2); 1990 s.10(4); 1992(2) Sch.3 para.48.
(8)	1983 Sch.1 para.1(6); added 1989 Sch.3 para.10(a); amended 1990 s.10(5).
para.2(1) to (6)	1983 Sch.1 para.1A(1) to (6); added 1986 s.10(1); amended 1992(2) Sch.3 para.49(1).
(7)(a), (b)	1983 Sch.1 para.1A(7)(a), (b); added 1986 s.10(1).
(c)	1983 Sch.1 para.1A(7)(ba); added 1992(2) Sch.3 para.49(2).
(d) to (f)	1983 Sch.1 para.1A(7)(c) to (e); added 1986 s.10(1).
(8)	1983 Sch.1 para.1A(8); added 1986 s.10(1).
para.3	1983 Sch.1 para.1B; added 1992(2) Sch.3 para.50.
para.4	1983 Sch.1 para.2; substituted 1987 s.14(3); amended 1988 s.14(2); 1989 Sch.3 para.10(b); 1992(2) Sch.3 para.51; S.I.1993/766; S.I.1993/2953.
para.5 to 8	1983 Sch.1 para.3, 4, 4A, 4B; substituted 1990 s.10(6); amended 1992(2) Sch.3 para.52.
para.9, 10	1983 Sch.1 para.5,5A; substituted 1988 s.14(4); amended 1992(2) Sch.3 para.53; repealed in part 1992(2) Sch.18 Pt.V.
para.11, 12	1983 Sch.1 para.7, 7A; substituted 1988 s.14(5); amended 1992(2) Sch.3 para.54, 55.



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para.13(1)	1983 Sch.1 para.8A(1); substituted 1988 s.14(6); amended 1992(2) Sch.3 para.56.
(2)	1983 Sch.1 para.9(1); amended 1992(2) Sch.3 para.57.
(3)	1983 Sch.1 para.10; substituted 1988 s.14(6).
(4)	1983 Sch.1 para.8A(1A), 9(1A); added 1992(2) Sch.3 para.56, 57.
(5)	1983 Sch.1 para.8A(1B), 9(1B); added 1992(2) Sch.3 para.56, 57.
(6)	1983 Sch.1 para.8A(2); substituted 1988 s.14(6); amended 1992(2) Sch.3 para.56.
para.14, 15	1983 Sch.1 para.11, 12; substituted 1988 s.14(7); amended 1992(2) Sch.3 para.58.
para.16	1983 Sch.1 para.13; substituted 1987 s.14(10).
para.17	1983 Sch.1 para.14.
para.18	1983 Sch.1 para.9(2); substituted 1988 s.14(6); amended 1992(2) Sch.3 para.57.
para.19	1983 Sch.1 para.15.
Schedule 2	1983 Sch.1A; added 1992(2) Sch.3 para.59.
Schedule 3	1983 Sch.1B; added 1992(2) Sch.3 para.59; amended S.I.1993/766; S.I.1993/2953.
Schedule 4	
para.1 to 4	1983 Sch.2 para.1 to 4; amended 1989 Sch.3 para.11.
para.5(1), (2)	1983 Sch.2 para.5(1), (2); amended 1989 Sch.3 para.11; 1993 s.47(2).
(3)	1983 Sch.2 para.5(2A); added 1993 s.47(3).
(4)	1983 Sch.2 para.5(3).
(5)	1983 Sch.2 para.5(3A); added 1993 s.47(4).
(6)	1983 Sch.2 para.5(4).
para.6	1983 Sch.2 para.5A; added 1992(2) Sch.3 para.60.
para.7	1983 Sch.2 para.6
para.8(1), (2)	1983 Sch.2 para.7(1), (2); amended 1992(2) Sch.3 para.60.
(3)	1983 Sch.2 para.7(2A); added 1992(2) s.16(4).
(4)	1983 Sch.2 para.7(3)
para.9	1983 Sch.2 para.8; added 1989 Sch.3 para.11.

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## Schedule 5

para.1 to 6	1983 Sch.3 para.1 to 6
para.7	1983 Sch.3 para.6A; added S.I.1985/799.
para.8	1983 Sch.3 para.7; amended S.I.1985/799.
para.9	1983 Sch.3 para.8; added S.I.1992/3128; substituted S.I.1993/2328.
para.10	S.I.1993/2328 para.4.

## Schedule 6

para.1	1983 Sch.4 para.1; amended 1987 s.17(1); Income and Corporation Taxes Act 1988 (c.1) Sch.29.
para.2	1983 Sch.4 para.3.
para.3	1983 Sch.4 para.3A; added 1992(2) Sch.3 para.61.
para.4	1983 Sch.4 para.4
para.5, 6, 7	1983 Sch.4 para.6, 7, 8; amended 1992(2) Sch.3 para.61.
para.8	1983 Sch.4 para.8A; added 1992(2) Sch.3 para.61.
para.9	1983 Sch.4 para.9; amended 1986 s.11; 1989 Sch.3 para.4(2).
para.10	1983 Sch.4 para.10.
para.11	1983 Sch.4 para.11; substituted 1992(2) Sch.3 para.61.
para.12, 13	1983 Sch.4 para.12, 13.
Schedule 7	1983 Schedule 4A; added 1992(2) Sch.3 para.62.
Schedule 8	1983 Schedule 5
Group 1 to 4	Group 1 to 4; amended 1984 Sch.6 para.1; S.I.1988/507; 1989 s.19; S.I.1986/530; S.I.1992/628.
Group 5	Group 8; substituted 1989 Sch.3 para.1; amended S.I.1990/2553.
Group 6	Group 8A; added 1984 Sch.6 para.8.
Item 1, 2	Group 8A Item 1, 2; amended 1989 Sch.3 para.2.
Notes (1) to (8)	Group 8A Notes (1), (1A), (2), (3), (4), (6), (6A), (7); amended S.I.1985/18; 1989 Sch.3 para.2; Planning (Consequential Provisions) Act 1990 c.11 Sch.2 para.61; Planning

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	(Northern Ireland) Order 1991 S.I.1220 (N.I. 11).
Group 7	Group 9; substituted S.I.1992/3223.
Group 8 Item 1 to 13	Group 10 Item 1 to 10, 12 to 14; amended S.I.1984/631; S.I.1987/1806; S.I.1990/752; S.I.1992/628; S.I.1992/3126; S.I.1992/3223.
Notes (1) to (9)	Group 10 Notes (1), (2), (2A), (3) to (8); amended S.I.1987/1806; S.I.1990/752; S.I.1992/3126.
Group 9	Group 11; amended 1989 Sch.3 para.3.
Group 10	Group 12.
Group 11	Group 13.
Group 12 Item 1 to 20	Group 14 Item 1 to 10, 10A, 10B, 11, 12, 12A, 13 to 17; amended DLA Sch.2 para.13; S.I.1984/489; S.I.1984/959; S.I.1986/530; S.I.1987/437; S.I.1992/628; S.I.1992/3065.
Notes (1) to (9)	Group 14 Notes (1) to (9); amended DLA Sch.2 para.13; S.I.1984/959; S.I.1985/919; S.I.1986/530.
Group 13	Group 15 Item 1, 3, 4, Notes (2) to (6); amended 1992(2) Sch.3 para.63; S.I.1992/3095 Sch.1 para.8.
Group 14	Group 15A; added S.I.1992/3131; S.I.1994/686.
Group 15 Item 1 to 10	Group 16 Item 1 to 10; amended S.I.1986/530; S.I.1987/437; S.I.1990/750; S.I.1991/737.
Notes (1) to (12)	Group 16 Notes (1), (3) to (13); amended S.I.1983/1717; S.I.1984/766; S.I.1985/431; S.I.1986/530; S.I.1987/437; S.I.1989/470; S.I.1990/750; S.I.1990/2129; S.I.1991/737.
Group 16	Group 17; amended 1989 s.22; S.I.1993/767.
Schedule 9	Schedule 6
Group 1 Item 1(a) to (n)	Group 1 Item 1(a), (aa), (b) to (l); substituted 1989 Sch.3 para.4; amended S.I.1990/2553; S.I.1991/2569.
Notes (1) to (16)	Group 1 Notes (1) to (6), (6A), (7) to (10), (10A), (10B), (11) to (13); amended S.I.1990/2553; S.I.1991/2569.
Group 2	Group 2; amended S.I.1990/2037.
Group 3	Group 3.
Group 4	Group 4 Item 1, 2, Notes (1), (2), (4); amended S.I.1987/517.

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Group 5 Item 1 to 9	Group 5 Item 1 to 6, 6A, 7, 8; 1987 s.18(1); S.I.1987/860; S.I.1989/2272.
Notes (1) to (6)	Group 5 Notes (1) to (6); amended S.I.1985/432; S.I.1989/2272.
Group 6	Substituted S.I.1994/1188.
Group 7 Item 1 to 11	Group 7 Item (1) to (11); amended Opticians Act 1989 (c.44) s.37(3); S.I.1985/1900; 1988 s.13; S.I.1989/2272.
Notes (1) to (7)	Group 7 Notes (1) to (7); amended S.I.1985/1900; 1988 s.13.
Group 8	Group 8.
Group 9	Group 9.
Group 10	Group 10; amended S.I.1994/687.
Group 11	Group 11; amended Inheritance Tax 1984 (c.51) Sch.8 para.24; 1985 Sch.26 para.26; 1986 s.100.
Group 12	Group 12 Item 1, 2, Notes (1), (1A), (2); added S.I.1989/470; amended S.I.1991/737; S.I.1994/687.
Schedule 10	1983 Schedule 6A; added 1989 Sch.3 para.6.
para.1, 2	1983 Sch.6A para.1,2; amended S.I.1991/2569.
para.3(1) to (6)	1983 Sch.6A para.3(1) to (6); amended S.I.1991/2569.
(7), (8)	1983 Sch.6A para.3(8), (9).
(9)	1983 Sch.6A para.3(10); added S.I.1991/2569.
para.4, 5	1983 Sch.6A para.4, 5; amended S.I.1991/2569.
para.6(1), (2)	1983 Sch.6A para.6(1),(2); amended S.I.1991/2569.
(3), (4)	1983 Sch.6A para.6(2A), (2B); added S.I.1991/2569.
(5)	1983 Sch.6A para.6(3).
(6) to (8)	1983 Sch.6A para.6(4) to (6); added S.I.1991/2569.
para.7	1983 Sch.6A para.6A; added S.I.1991/2569.
para.8, 9	1983 Sch.6A para.7, 8; amended S.I.1991/2569.
Schedule 11	
para.1	1983 Sch.7 para.1.

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para.2(1), (2)	1983 Sch.7 para.2(1), (2); amended 1992(2) Sch.3 para.64.
(3) to (5)	1983 Sch.7 para.2(2A), (2B), (2C); added 1992(2) Sch.3 para.64.
(6)	1983 Sch.7 para.2(3).
(7)	1983 Sch.7 para.2(3A); added 1987 s.11(2).
(8), (9)	1983 Sch.7 para.2(3B), (3C); added 1992(2) Sch.3 para.64; amended 1993 s.50(4)
(10) to (13)	1983 Sch.7 para.2(4) to (7); amended 1989 s.25(2).
para.3(1), (2)	1983 Sch.7 para.3(1), (2)
(3)	1983 Sch.7 para.3(2A); amended 1992(2) Sch.3 para.65.
para.4	1983 Sch.7 para.5; amended 1992(2) Sch.3 para.68.
para.5	1983 Sch.7 para.6; amended 1984 s.16; Debtors (Scotland) Act (c.18) Sch.4 para.4; 1992(2) Sch.3 para.69.
para.6(1)	1983 Sch.7 para.7(1); amended 1992(2) Sch.3 para.70.
(2)	1983 Sch.7 para.7(1A); added 1989 s.25.
(3) to (6)	1983 Sch.7 para.7(2) to (5); amended 1985 Sch.7 para.2; PACE Sch.6 para.41.
para.7(1) to (4)	1983 Sch.7 para.8(1) to (4); amended 1985 Sch.7 para.3; 1992(2) Sch.3 para.71.
(5) to (7)	1983 Sch.7 para.8(4A), (4B), (4C); amended 1985 Sch.7 para.3.
(8)	1983 Sch.7 para.8(5).
para.8	1983 Sch.7 para.9; amended 1992(2) Sch.3 para.72.
para.9	1983 Sch.7 para.9A; added 1985 Sch.7 para.4.
para.10	1983 Sch.7 para.10; amended PACE Sch.6 para.41; 1985 Sch.7 para.5; 1992(2) Sch.3 para.73.
para.11 to 13	1983 Sch.7 para.10A, 10B, 10C; added 1985 Sch.7 para.6.
para.14	1983 Sch.7 para.11; amended 1992(2) Sch.3 para.74.
Schedule 12	
para.1	1983 Sch.8 para.1; 1994 s.7.

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*Status: Point in time view as at 26/07/2021.*

*Changes to legislation: Value Added Tax Act 1994 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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para.2	1983 Sch.8 para.2; amended 1985 Sch.8 para.2; CLSA Sch.10 para.52.
para.3(1)	1983 Sch.8 para.3(1); substituted JPRA Sch.6 para.35.
(2) to (4)	1983 Sch.8 para.3(2) to (4); amended 1985 Sch.8 para.3.
(5)	1983 Sch.8 para.3(4A); added JPRA Sch.8 para.16.
(6)	1983 Sch.8 para.3(5); amended 1985 Sch.8 para..3.
para.4	1983 Sch.8 para.4; amended 1985 Sch.8 para.4.
para.5, 6	1983 Sch.8 para.5, 6.
para.7(1) to (3)	1983 Sch.8 para.7(1) to (3).
(4) to (7)	1983 Sch.8 para.7(3A), (3B), (3C), (3E); added 1985 Sch.8 para.5; amended CLSA Sch.10 para.52; JPRA Sch.6 para.35.
(8)	1983 Sch.8 para.7(4); amended 1985 Sch.8 para.5.
(9)	1983 Sch.8 para.7(4A); added JPRA 1993 Sch.8 para.16.
(10)	1983 Sch.8 para.7(5); amended 1985 Sch.8 para.5.
para.8	1983 Sch.8 para.8
para.9	1983 Sch.8 para.9; 1985 s.27(3).
(a) to (d)	1983 Sch.8 para.9(a) to (d).
(e)	1983 Sch.8 para.9(dd); added 1985 s.27(2).
(f) to (h)	1983 Sch.8 para.9(e) to (g); amended 1985 s.27(2).
(j)	1986 s.14(7)
para.10	1983 Sch.8 para.10; added 1985 s.28.

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**Status:**

Point in time view as at 26/07/2021.

**Changes to legislation:**

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