



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART VI

#### SUPPLEMENTARY PROVISIONS

##### *Change in rate of VATetc. 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>F1</sup>or 29A] or in the descriptions of exempt [<sup>F2</sup>, zero-rated or reduced-rate] supplies <sup>F3</sup>....

(2) Where—

(a) 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

(b) 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,

the rate at which VAT is chargeable on the supply, or any question whether it is zero-rated or exempt [<sup>F4</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>F5</sup>(4) .....

(5) Regulations under [<sup>F6</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

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(b) was issued before the election was made.

(6) No election may be made under this section in respect of a supply to which [F7 paragraph 7 of Schedule 4 or paragraph 2B(4) of Schedule 11] applies.

[F8(7) . . . . .]

[F9(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

- F1** Words in s. 88(1) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(2)(a)**
- F2** Words in s. 88(1) substituted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(2)(b)**
- F3** 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)
- F4** Words in s. 88(2) inserted (11.5.2001) by 2001 c. 9, s. 99, **Sch. 31 para. 4(3)**
- F5** 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)
- F6** 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
- F7** 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
- F8** 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)
- F9** 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)

- C1** S. 88(2) modified (20.10.1995) by **S.I. 1995/2518, reg. 95**

## 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

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a change attributable to the making of an [F10] option to tax any land under Part 1 of Schedule 10]).

#### Textual Amendments

- F10** 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>M1</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>F11</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>F12</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>F13</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>F14</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, [F15]33A, [F16]33B, [F17]33C [F18] 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.

#### Textual Amendments

- F11** 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)
- F12** 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)
- F13** 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)

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- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** 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)

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**Marginal Citations**

**M1** 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>F19</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>F20</sup>or Board], the Commissioners or an authorised officer of the Commissioners may disclose to an authorised officer of that Department [<sup>F20</sup>or Board] particulars of the following descriptions obtained or recorded by them in pursuance of this Act—
- (a) numbers allocated by the Commissioners on the registration of persons under this Act and reference numbers for members of a group;
  - (b) names, trading styles and addresses of persons so registered or of members of groups and status and trade classifications of businesses; and
  - (c) 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>F21</sup>Statistics Board] may be disclosed except to an officer of a Government department (including a Northern Ireland department) [<sup>F22</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.
- (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.

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- (5) In this section, references to the Department of Trade and Industry or the [<sup>F23</sup>Statistics Board] include references to any Northern Ireland department [<sup>F24</sup>or to any part of the Scottish Administration] carrying out similar functions.

#### Textual Amendments

- F19** 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
- F20** 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
- F21** 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
- F22** 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](#)
- F23** 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
- F24** 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](#)

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