



Finance Act 2006

2006 CHAPTER 25

PART 2

VALUE ADDED TAX

Avoidance and fraud

19 Missing trader intra-community fraud

- (1) After section 55 of VATA 1994 (customers to account for tax on supplies of gold etc) insert—

“55A Customers to account for tax on supplies of goods of a kind used in missing trader intra-community fraud

- (1) Subsection (3) applies if—
- (a) a taxable (but not a zero-rated) supply of goods (“the relevant supply”) is made to a person (“the recipient”),
 - (b) the relevant supply is of goods 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 which—
- (a) is a supply of goods to which this section applies, and
 - (b) is not an excepted supply.

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- (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 Schedule 1—
- (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 to a person (“the recipient”) at any time,
 - (b) the supply is of goods 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.
- (9) For the purposes of this section, goods are goods to which this section applies if they are of a description specified in an order made by the Treasury.
- (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 by reference to—
- (a) the use which has been made of the goods, or
 - (b) other matters unrelated to the characteristics of the goods 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.

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- (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.”.

- (2) After section 26A of VATA 1994 (disallowance of input tax where consideration not paid) insert—

“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.”.

^{F1}(3)

^{F2}(4)

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- (5) In section 69 of VATA 1994 (breaches of regulatory provisions), in subsection (1) (failure to comply with a requirement imposed under provisions mentioned in the paragraphs in that subsection), after paragraph (b) insert—
“(ba) paragraph 2(3B) of Schedule 11; or”.
- (6) In section 97 of VATA 1994 (orders, rules and regulations), in subsection (4) (orders which cease to have effect unless approved by House of Commons), after paragraph (e) insert—
“(ea) an order under section 55A(13);”.
- (7) In Schedule 11 to VATA 1994 (administration, collection and enforcement), in paragraph 2 (accounting for VAT and payment of VAT), after sub-paragraph (3) insert—
“(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
(b) determined by the Commissioners in accordance with powers conferred by 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 prescribed.
(3B) Regulations under this paragraph may make provision, in relation to the first occasion on which a person makes a supply of goods to which section 55A(6) applies, for requiring the person to give to the Commissioners such notification of the supply at such time and in such form and manner as may be specified in the regulations.”.
- (8) The amendments made by this section have effect in relation to supplies made on or after such day as the Treasury may by order made by statutory instrument appoint.
But no order may be made under this subsection on or after 22nd March 2009.
- (9) An order under subsection (8) may contain transitional provision and savings.

Subordinate Legislation Made

P1 S. 19(8) power fully exercised: 1.6.2007 appointed by {S.I. 2007/1419}, art. 2

Textual Amendments

- F1** S. 19(3) repealed (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 132\(f\)](#) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 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. 19(4) repealed (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 132\(f\)](#) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 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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