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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, SCHEDULE 27. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 27

Section 196

#### ANTI-FORESTALLING CHARGE TO VAT

##### PART 1

#### ANTI-FORESTALLING CHARGE TO VAT

##### *Introductory*

- 1 In this Schedule—
- “date of the VAT change” means 1 October 2012;
  - “pre-change supply” means a supply of a description specified in paragraph 3 which—
    - (a) is treated as taking place before the date of the VAT change, and
    - (b) if it had been treated as taking place on that date, would have been charged to VAT at the standard rate as a result of the amendments made by Schedule 26.

##### *The charge*

- 2 (1) There is an anti-forestalling charge to value added tax on any pre-change supply which—
- (a) is treated as taking place on or after 21 March 2012, and
  - (b) is a supply linked to the post-change period (see paragraph 4).
- (2) “Chargeable pre-change supply” means a supply to which sub-paragraph (1) applies.
- (3) An anti-forestalling charge to value added tax under this Schedule is to be treated for all purposes as if it were value added tax charged in accordance with VATA 1994.

##### *The supplies*

- 3 (1) The descriptions of supplies are—
- (a) the supply, in the course of an approved alteration of a protected building, of any services, other than the services of an architect, surveyor or any person acting as consultant or in a supervisory capacity,
  - (b) the supply of building materials to a person to whom the supplier is supplying services within paragraph (a) which include the incorporation of the materials into the building (or its site),
  - (c) the grant of facilities for the self storage of goods, or
  - (d) the grant of a right to receive a supply within paragraph (c).

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- (2) The Notes to Group 6 in Schedule 8 to VATA 1994 have effect for the purposes of sub-paragraph (1)(a) and (b) as they had effect for the purposes of items 1 to 3 of that Group on 21 March 2012.
- (3) For the purposes of this Schedule a right to receive a supply includes—
  - (a) any option to receive that supply, and
  - (b) any interest deriving from such an option.

*Supplies linked to the post-change period*

- 4 (1) A supply of services within paragraph 3(1)(a) or (c) is linked to the post-change period if, and to the extent that, the services are carried out or provided on or after the date of the VAT change.
- (2) A supply of goods within paragraph 3(1)(b) is linked to the post-change period if, and to the extent that, the goods are incorporated into the building concerned (or its site) on or after that date.
- (3) A supply within paragraph 3(1)(d) is linked to the post-change period if, and to the extent that, the services to which the grant relates are carried out or provided on or after that date.

*Power to modify this Schedule*

- 5 (1) The Treasury may by order modify this Schedule for the purposes of preventing an anti-forestalling charge from arising, in the circumstances specified in the order, in relation to any description of supplies specified in the order.
- (2) An order under this paragraph may contain provision having retrospective effect.
- (3) An order under this paragraph is to be made by statutory instrument.
- (4) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

## PART 2

### LIABILITY AND AMOUNT

*Liability*

- 6 (1) An anti-forestalling charge under this Schedule on a chargeable pre-change supply—
  - (a) is a liability of the supplier (subject to sub-paragraph (2)), and
  - (b) becomes due on the date of the VAT change (rather than at the time of supply).
- (2) If, on the date on which the anti-forestalling charge becomes due, the person who would be liable to pay the charge under sub-paragraph (1)—
  - (a) is not a taxable person, but
  - (b) is treated as a member of a group under sections 43A to 43D of VATA 1994, the anti-forestalling charge is a liability of the representative member of the group.

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*Amount*

- 7 (1) The amount of the anti-forestalling charge on a chargeable pre-change supply is the amount of VAT that would be chargeable on the supply if it were subject to VAT at 20%.

This is subject to any reduction under sub-paragraph (2).

- (2) If the chargeable pre-change supply is not wholly linked to the post-change period, the anti-forestalling charge is the relevant proportion of that amount.
- (3) The relevant proportion is—

$$\frac{P}{W}$$

where—

P is so much of the consideration for the chargeable supply as is attributable, on a just and reasonable basis, to that part of the supply (or, in the case of a grant of a right, that part of the supply to which the right relates) which is linked to the post-change period;

W is the whole of the consideration for the chargeable pre-change supply.

**PART 3**

ADMINISTRATION AND INTERPRETATION

*Person ceasing to be taxable person before anti-forestalling charge due*

- 8 (1) This paragraph applies if, on the date on which an anti-forestalling charge under this Schedule becomes due (“the due date”), the person who is liable to pay the charge under paragraph 6 is not a taxable person.
- (2) The anti-forestalling charge must be accounted for by that person in accordance with VATA 1994 (and regulations made under that Act) as if it were VAT due in the last period for which the person was required to make a return by or under VATA 1994.
- (3) If an amount assessed as due by way of an anti-forestalling charge under this Schedule would (in the absence of this sub-paragraph) carry interest from a date earlier than the due date, it is to be treated as only carrying interest from the due date.

*Adjustment of contracts following the VAT change*

- 9 (1) This paragraph applies where—
- (a) a contract for the supply of goods or services is made before the date of the VAT change, and
  - (b) there is an anti-forestalling charge under this Schedule on the supply.
- (2) The consideration for the supply is to be increased by an amount equal to the anti-forestalling charge, unless the contract provides otherwise.

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*Invoices*

- 10 Regulations under paragraph 2A of Schedule 11 to VATA 1994 (VAT invoices) may make provision about the provision, replacement or correction of invoices in connection with an anti-forestalling charge under this Schedule.

*Interpretation: general*

- 11 (1) Expressions used in this Schedule and in VATA 1994 have the same meaning in this Schedule as in that Act.
- (2) In this Schedule “treated as taking place” means treated as taking place for the purposes of the charge to VAT.

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