

STATUTORY INSTRUMENTS

1995 No. 2518

The Value Added Tax Regulations 1995

PART XV

ADJUSTMENTS TO THE DEDUCTION OF INPUT TAXON CAPITAL ITEMS

Interpretation of Part XV

112. —

(1) Any expression used in this Part to which a meaning is given in Part XIV of these Regulations shall, unless the contrary intention appears, have the same meaning in this Part as it has in that Part [^{F1}and in particular, exempt supplies and taxable supplies shall be accorded the same meanings as defined in regulation 110 above].

(2) Any reference in this Part to a capital item shall be construed as a reference to a capital item to which this Part applies by virtue of regulation 113, being an item which a person [^{F2}who has or acquires an interest in the item in question] (hereinafter referred to as “the owner”) uses in the course or furtherance of a business carried on by him, and for the purpose of that business, otherwise than solely for the purpose of selling the item.

[^{F3}(3) In this regulation and in regulation 114, an interest includes an interest which is treated as being supplied to a person under [^{F4}paragraph 37(1)] of Schedule 10 to the Act provided that the numerator of the fraction in [^{F5}paragraph 37(3)] of that Schedule is [^{F6}36] or more.

(4) The reference to “owner” in paragraph (2) shall be taken to refer to—

- (a) subject to sub-paragraph (b), the transferee where the whole or part of a capital item is transferred from one person to another and that transfer is not treated as a supply for the purposes of VAT; and
- (b) the representative member of a group under section 43 of the Act if the capital item is owned by a member of the group.

(5) Where the owner is a transferee or representative member, that person shall be treated as having done everything that the transferor or group member (as may be the case) has done in respect of the capital item.]

Textual Amendments

- F1** Words in reg. 112(1) added (1.1.2000) by The Value Added Tax (Amendment) (No. 4) Regulations 1999 (S.I. 1999/3114), regs. 1, **10**
- F2** Words in reg. 112(2) inserted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **10(a)**
- F3** Reg. 112(3)-(5) inserted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **10(b)**
- F4** Words in reg. 112(3) substituted (2.3.2011) by The Value Added Tax (Amendment) Regulations 2011 (S.I. 2011/254), regs. 1(1), **3(a)** (with reg. 1(2))

- F5** Words in reg. 112(3) substituted (2.3.2011) by [The Value Added Tax \(Amendment\) Regulations 2011 \(S.I. 2011/254\)](#), regs. 1(1), **3(b)** (with reg. 1(2))
- F6** Word in reg. 112(3) substituted (2.3.2011) by [The Value Added Tax \(Amendment\) Regulations 2011 \(S.I. 2011/254\)](#), regs. 1(1), **3(c)** (with reg. 1(2))

Commencement Information

- I1** Reg. 112 in force at 20.10.1995, see [reg. 1](#)

Capital items to which this Part applies

[^{F7}**113.**—(1) The capital items to which this Part applies are any of the items specified in paragraph (2) on or in relation to which the owner incurs VAT bearing capital expenditure of a type specified in paragraph (3), the value of which is not less than that specified in paragraph (4).

(2) The items are—

- (a) land;
- (b) a building or part of a building;
- (c) a civil engineering work or part of a civil engineering work;
- (d) a computer or an item of computer equipment;
- (e) an aircraft;
- (f) a ship, boat or other vessel.

(3) The expenditure—

- (a) in the case of an item falling within paragraph (2)(a) or (d), is the expenditure relating to its acquisition;
- (b) in the case of an item falling within paragraph (2)(b), (c), (e) or (f), is the expenditure relating to its—
 - (i) acquisition,
 - (ii) construction (including where appropriate manufacture),
 - (iii) refurbishment,
 - (iv) fitting out,
 - (v) alteration, or
 - (vi) extension (including the construction of an annex).

(4) The value for the purposes of paragraph (3) is—

- (a) not less than £250,000 where the item falls within paragraph (2)(a), (b) or (c);
- (b) not less than £50,000 where the item falls within paragraph (2)(d), (e) or (f).]

Textual Amendments

- F7** [Reg. 113](#) substituted (1.1.2011) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2010 \(S.I. 2010/3022\)](#), regs. 1(1), **11** (with [reg. 1\(3\)](#))

[^{F8}**113A.**—(1) This regulation applies where—

- (a) the owner of an item described by regulation 113(2)(a) to (c) (“O”) (or a person to whom O has granted an interest in that item) uses that item to make a grant that falls within item 1(ka) of Group 1 of Schedule 9 to the Act,

- (b) apart from this regulation, the item would not be a capital item to which this Part applies,
 - (c) O has, no later than 31st March 2013, decided to treat the item as a capital item for the purposes of this Part, and
 - (d) O has made a written record of that decision specifying the date that it was made.
- (2) Where this regulation applies, for the item in question—
- (a) for “£250,000” in regulation 113(4)(a) substitute “£1”, but
 - (b) no adjustment of deductions of input tax shall be made under this Part for any intervals ending before 1st October 2012 that fall within the period of adjustment for the capital item as prescribed in regulation 114.]

Textual Amendments

- F8** Reg. 113A inserted (1.10.2012) by *The Value Added Tax (Amendment) (No. 2) Regulations 2012 (S.I. 2012/1899)*, regs. 2(1), 17

Period of adjustment

114. —

(1) The proportion (if any) of the total input tax on a capital item which may be deducted under Part XIV shall be subject to adjustments in accordance with the provisions of this Part.

(2) Adjustments shall be made over a period determined in accordance with the following paragraphs of this regulation.

[^{F9}(3) Subject to paragraphs (3A) and (3B), the period of adjustment is—

- (a) 10 successive intervals in the case of a capital item of a description falling within regulation 113(2)(a) to (c);
- (b) 5 successive intervals in the case of a capital item of a description falling within regulation 113(2)(d) to (f),

determined in accordance with paragraphs (4) to (5B) and (7).

(3A) If, at the time of the owner’s first use, the number of intervals specified in paragraph (3) (a) or (b) (as may be the case) exceeds the number of complete years that the owner’s interest in the capital item has to run by more than one, the number of intervals shall be reduced to one more than the number of complete years that the owner’s interest has to run calculated from the date of the owner’s first use of the item (but not to less than three intervals).

(3B) Where the owner’s interest falls within regulation 112(3), the number of intervals shall be the same as the numerator of the fraction in [^{F10}paragraph 37(3)] of Schedule 10 to the Act [^{F11}divided by 12 and rounded up to the next whole number].

(3C) Where paragraph (3A) or (3B) applies, the relevant denominator in regulation 115(1) shall be adjusted accordingly.

(3D) Where a person who registers for VAT already owns an item of a description falling within regulation 113, for the purposes of calculating the period of adjustment—

- (a) one complete interval shall be deducted for each complete year which has elapsed since the date of that person’s first use of the capital item prior to the date of VAT registration, and
- (b) the first interval applicable to the capital item which ends after the date of VAT registration shall be treated as a subsequent interval for the purposes of regulation 115(1).

(4) Subject to paragraphs (5A), (5B) and (7), the first interval applicable to a capital item shall commence on the day on which the owner first uses the capital item and shall end on the day before the start of his next tax year whether or not this is his first tax year.]

(5) Subject to [F12] paragraphs (5A), (5B) and (7)] below, each subsequent interval applicable to a capital item shall correspond with a longer period applicable to the owner, or if no longer period applies to him, a tax year of his.

[F13(5A) On the first occasion during the period of adjustment applicable to a capital item that the owner of the item—

- (a) being a registered person subsequently becomes a member of a group under section 43 of the Act;
- (b) being a member of a group under section 43 ceases to be a member of that group (whether or not he becomes a member of another such group immediately thereafter); or
- (c) transfers the item in the course of the transfer of his business or part of his business as a going concern (the item therefore not being treated as supplied) in circumstances where the new owner is not, under regulation 6(1) above, registered with the registration number of and in substitution for the transferor,

the interval then applying shall end on the day before he becomes a member of a group or the day that he ceases to be a member of the group or transfers the business or part of the business (as the case may require) and thereafter each subsequent interval (if any) applicable to the capital item shall end on the successive anniversaries of that day.

(5B) Where the extent to which a capital item is used in making taxable supplies does not change between what would, but for this paragraph, have been the first interval and the first subsequent interval applicable to it and the length of the two intervals taken together does not exceed 12 months the first interval applicable to the capital item shall end on what would have been the day that the first subsequent interval expired.]

[F14(6)

[F15(7) Where the owner of a capital item transfers it during the period of adjustment applicable to it in the course of the transfer of his business or a part of his business as a going concern (the item therefore not being treated as supplied) and the new owner is, under regulation 6(1) above, registered with the registration number of, and in substitution for the transferor, the interval applying to the capital item at the time of the transfer shall end on the last day of the longer period applying to the new owner immediately after the transfer or, if no longer period then applies to him, shall end on the last day of his tax year following the day of transfer.]

Textual Amendments

- F9** Reg. 114(3), (3A)-(3D), (4) substituted for reg. 114(3), (4) (1.1.2011) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2010](#) (S.I. 2010/3022), regs. 1(1), **12** (with reg. 1(5))
- F10** Words in reg. 114(3B) substituted (2.3.2011) by [The Value Added Tax \(Amendment\) Regulations 2011](#) (S.I. 2011/254), regs. 1(1), **4(a)** (with reg. 1(2))
- F11** Words in reg. 114(3B) inserted (2.3.2011) by [The Value Added Tax \(Amendment\) Regulations 2011](#) (S.I. 2011/254), regs. 1(1), **4(b)** (with reg. 1(2))
- F12** Words in reg. 114(5) substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **11(c)**
- F13** Reg. 114(5A)(5B) inserted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **11(d)**
- F14** Reg. 114(6) omitted (3.7.1997) by virtue of [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **11(e)**

F15 Reg. 114(7) substituted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, 11(f)

Commencement Information

I2 Reg. 114 in force at 20.10.1995, see [reg. 1](#)

Method of adjustment

115. —

(1) Where in a subsequent interval applicable to a capital item, the extent to which it is used in making taxable supplies increases from the extent to which it was so used [^{F16}or to be used at the time that the original entitlement to deduction of the input tax was determined], the owner may deduct for that subsequent interval an amount calculated as follows—

(a) where the capital item falls within [^{F17}regulation 114(3)(b)]—

$$\frac{\text{the total input tax on the capital item}}{5} \times \text{the adjustment percentage;}$$

(b) where the capital item falls within [^{F18}regulation 114(3)(a)]—

$$\frac{\text{the total input tax on the capital item}}{10} \times \text{the adjustment percentage.}$$

(2) Where in a subsequent interval applicable to a capital item, the extent to which it is used in making taxable supplies decreases from the extent to which it was so used [^{F19}or to be used at the time that the original entitlement to deduction of the input tax was determined], the owner shall pay to the Commissioners for that subsequent interval an amount calculated in the manner described in paragraph (1) above.

[^{F20}(3) Paragraph (3ZA) applies where, during an interval other than the last interval applicable to a capital item, the owner—

- (a) supplies the whole or part of his interest in the capital item, or
- (b) is deemed to supply the whole or part of his interest in the capital item, or
- (c) would have been deemed to supply the whole of his interest in the capital item but for the fact that the VAT on the deemed supply (whether by virtue of its value or because it is zero-rated or exempt) would not have exceeded the sum specified in paragraph 8(1)(c) of Schedule 4 to the Act.

(3ZA) If the supply (or deemed supply) of the capital item referred to in paragraph (3) is—

- (a) a taxable supply, the owner shall be treated as using the whole or part (as may be the case) of the capital item for each of the remaining complete intervals applicable to it wholly in making taxable supplies, or
- (b) an exempt supply, the owner shall be treated as not using the whole or part (as may be the case) of the capital item for any of the remaining complete intervals applicable to it in making any taxable supplies,

and, in each case, the owner shall, except where paragraph (3A) applies, calculate for each of the remaining complete intervals applicable to the capital item, in accordance with paragraph (1) or (2) as the case may require, such amount as the owner may deduct or be liable to pay to the Commissioners.]

[^{F21}(3A) This paragraph applies if the total amount of input tax deducted or deductible by the owner of a capital item as a result of the initial deduction, any adjustments made under paragraph (1) or (2) above and the adjustment which would apart from this paragraph fall to be made under

[^{F22}paragraph (3ZA)] above would exceed the output tax chargeable by him [^{F23}on the supply of the whole or part of that capital item].

(3B) Save as the Commissioners may otherwise allow, where paragraph (3A) above applies the owner may deduct, or as the case may require, shall pay to the Commissioners such amount as results in the total amount of input tax deducted or deductible being equal to the output tax chargeable by him [^{F24}on the supply of the whole or part of the capital item].]

[^{F25}(4) If a capital item is irretrievably lost or stolen or is totally destroyed, no further adjustment shall be made in respect of any remaining complete intervals applicable to it.]

[^{F26}(5) Subject to paragraph (5A), for the purposes of this Part —

“the adjustment percentage” means the difference (if any) between the extent, expressed as a percentage, to which the whole or part as appropriate of the capital item was used or to be used for the making of taxable supplies at the time the original entitlement to deduction of the input tax was determined and the extent to which the whole or part of it as appropriate is so used, or is treated under paragraph (3ZA) as being so used, in the subsequent interval in question;

“the original entitlement to deduction” means the entitlement to deduction under sections 24 to 26 of the Act and regulations made under those sections;

“the total input tax on the capital item” means—

in relation to any capital item, all VAT incurred by the owner on the capital expenditure on that item (whether or not the person incurring it is VAT registered at the time that it is incurred) including any non-business VAT; and

where a person is treated as making a supply to himself under [^{F27}paragraph 37(1)] of Schedule 10 to the Act, the VAT charged on that supply;

“VAT bearing capital expenditure” means capital expenditure on which VAT is charged at the standard rate or at a reduced rate.]

[^{F28}(5A) Where paragraph (3ZA) applies in respect of part of a capital item, for the remaining complete intervals the total VAT incurred on the capital item as defined in paragraph (5) shall be reduced accordingly.

(5B) The person responsible for making an adjustment under paragraph (1), (2) or (3ZA) shall be the person who is treated as the owner of the capital item under regulation 112 at the point immediately prior to the end of the interval in question or, in the case of an adjustment under paragraph (3ZA), the event specified in paragraph (3).]

(6) [^{F29}Subject to [^{F30}paragraphs (9) and (11)] below] a taxable person claiming any amount pursuant to paragraph (1) above, or liable to pay any amount pursuant to paragraph (2) above, shall include such amount in a return for the second prescribed accounting period next following the interval to which that amount relates, except where the Commissioners allow another return to be used for this purpose,

^{F31} ...

(7) [^{F32}Subject to [^{F33}paragraphs (9) and (11)] below] a taxable person claiming any amount or amounts, or liable to pay any amount or amounts, pursuant to paragraph [^{F34}(3ZA)] above, shall include such amount or amounts in a return for the second prescribed accounting period next following the interval in which the supply (or deemed supply) in question takes place except where the Commissioners allow another return to be used for this purpose.

[^{F35}[^{F36}(8) For the purposes of paragraph (9), a “specified return” means a return specified in paragraph (6) or (7).]

(9) ^{F37}... The Commissioners shall not allow the taxable person to use a return other than a specified return unless it is the return for a prescribed accounting period commencing within 4 years of the end of the prescribed accounting period to which the specified return relates.

^{F38}(10)]

[^{F39}(11) Where a person is required to make an adjustment under paragraph (1), (2) or (3ZA) at a time when he is no longer registered for VAT, he shall make the required adjustment in his final VAT return.]

Textual Amendments

- F16** Words in reg. 115(1) substituted (with effect in accordance with reg. 1(5) of the amending S.I.) by The Value Added Tax (Amendment) (No. 2) Regulations 1999 (S.I. 1999/599), regs. 1(1), **6(a)**
- F17** Words in reg. 115(1)(a) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(a)**
- F18** Words in reg. 115(1)(b) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(b)**
- F19** Words in reg. 115(2) substituted (with effect in accordance with reg. 1(5) of the amending S.I.) by The Value Added Tax (Amendment) (No. 2) Regulations 1999 (S.I. 1999/599), regs. 1(1), **6(a)**
- F20** Reg. 115(3)(3ZA) substituted for reg. 115(3) (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(c)**
- F21** Reg. 115(3A)(3B) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **12(b)**
- F22** Words in reg. 115(3A) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(d)(i)**
- F23** Words in reg. 115(3A) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(d)(ii)**
- F24** Words in reg. 115(3B) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(e)**
- F25** Reg. 115(4) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(f)**
- F26** Reg. 115(5) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(g)** (with reg. 1(3))
- F27** Words in reg. 115(5) substituted (2.3.2011) by The Value Added Tax (Amendment) Regulations 2011 (S.I. 2011/254), regs. 1(1), **5** (with reg. 1(2))
- F28** Reg. 115(5A)(5B) inserted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(h)**
- F29** Words in reg. 115(6) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **8(a)**
- F30** Words in reg. 115(6) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(i)(i)**
- F31** Words in reg. 115(6) omitted (1.1.2011) by virtue of The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(i)(ii)**
- F32** Words in reg. 115(7) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **8(a)**
- F33** Words in reg. 115(7) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(j)(i)**
- F34** Word in reg. 115(7) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(j)(ii)**
- F35** Reg. 115(8)-(10) substituted for reg. 115(8) (1.4.2009) by The Value Added Tax (Amendment) Regulations 2009 (S.I. 2009/586), regs. 1, **9**

- F36** Reg. 115(8) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(k)**
- F37** Words in reg. 115(9) omitted (1.1.2011) by virtue of The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(l)**
- F38** Reg. 115(10) omitted (1.1.2011) by virtue of The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(m)**
- F39** Reg. 115(11) inserted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **13(n)**

Commencement Information

- I3** Reg. 115 in force at 20.10.1995, see **reg. 1**

Ascertainment of taxable use of a capital item

116. —

(1) Subject to regulation 115(3) [^{F40}and (3B)] and paragraphs (2) [^{F41}, (A2)] and (3) below, for the purposes of this Part, an attribution of the total input tax on the capital item shall be determined for each subsequent interval applicable to it [^{F42}in accordance with the provisions of sections 24 to 26 of the Act and regulations made under those sections as they apply to that interval] and the proportion of the input tax thereby determined to be attributable to taxable supplies shall be treated as being the extent to which the capital item is used in making taxable supplies in that subsequent interval.

[^{F43}(A2) Subject to paragraph (2) below, the attribution of the total input tax on a capital item for subsequent intervals determined in accordance with regulation 114(5A) above shall be determined by such method as is agreed with the Commissioners.]

(2) In any particular case the Commissioners may allow another method by which, or may direct the manner in which, the extent to which a capital item is used in making taxable supplies in any subsequent interval applicable to it is to be ascertained.

(3) Where the owner of a building which is a capital item of his grants or assigns a tenancy or lease in the whole or any part of that building and that grant or assignment is a zero-rated supply to the extent only as provided by—

- (a) note [^{F44}(14)] to Group 5 of Schedule 8 to the Act, or
- (b) that note as applied to Group 6 of that Schedule by note [^{F45}(3)] to Group 6, or
- (c) paragraph 8 of Schedule 13 to the Act,

any subsequent exempt supply of his arising directly from that grant or assignment shall be disregarded in determining the extent to which the capital item is used in making taxable supplies in any interval applicable to it.

Textual Amendments

- F40** Words in reg. 116(1) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **13(a)(i)**
- F41** Word in reg. 116(1) and comma inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **13(a)(ii)**
- F42** Words in reg. 116(1) substituted (1.1.2011) by The Value Added Tax (Amendment) (No. 4) Regulations 2010 (S.I. 2010/3022), regs. 1(1), **14**
- F43** Reg. 116(A2) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **13(b)**
- F44** Word in reg. 116(3)(a) substituted (1.1.1996) by The Value Added Tax (Amendment) Regulations 1995 (S.I. 1995/3147), regs. 1, **5(a)**

F45 Word in reg. 116(3)(b) substituted (1.1.1996) by The Value Added Tax (Amendment) Regulations 1995 (S.I. 1995/3147), regs. 1, **5(b)**

Commencement Information

I4 Reg. 116 in force at 20.10.1995, see **reg. 1**

Changes to legislation:

There are currently no known outstanding effects for the The Value Added Tax Regulations 1995, PART XV.