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STATUTORY INSTRUMENTS

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**1995 No. 2518**

**The Value Added Tax Regulations 1995**

**PART XX**

**REPAYMENTS TO COMMUNITY TRADERS**

**Interpretation of Part XX**

**173.** —

(1) In this Part—

“calendar year” means the period of 12 months beginning with the first day of January in any year;

“claimant” means a person making a claim under this Part or a person on whose behalf such a claim is made;

“official authority” means the authority in a member State designated to issue the certificate referred to in regulation 178(1)(b)(i).

(2) For the purposes of this Part, a person is treated as being established in a country if—

(a) he has there an establishment from which business transactions are effected, or

(b) he has no such establishment (there or elsewhere) but his usual place of residence is there.

(3) For the purposes of this Part—

(a) a person carrying on business through a branch or agency in any country is treated as having there an establishment from which business transactions are effected, and

(b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.

**Repayment of VAT**

**174.** Subject to the other provisions of this Part a person to whom this Part applies shall be entitled to be repaid VAT charged on goods imported by him from a place outside the member States in respect of which no other relief is available or on supplies made to him in the United Kingdom if that VAT would be input tax of his were he a taxable person in the United Kingdom.

**Persons to whom this Part applies**

**175.** This Part applies to a person carrying on business in a member State other than the United Kingdom but does not apply to such a person in any period referred to in regulation 179 if during that period—

(a) he was established in the United Kingdom, or

(b) he made supplies in the United Kingdom of goods or services other than—

(i) transport of freight outside the United Kingdom or to or from a place outside the United Kingdom or services ancillary thereto,

- (ii) services where the VAT on the supply is payable solely by the person to whom the services are supplied in accordance with the provisions of section 8 of the Act, and
- (iii) goods where the VAT on the supply is payable solely by the person to whom they are supplied as provided for in section 14 of the Act.

### **Supplies and importations to which this Part applies**

**176.** This Part applies to any supply of goods or services made in the United Kingdom or to any importation of goods from a place outside the member States but does not apply to—

- (a) a supply or importation of goods or a supply of services which the claimant has used or intends to use for the purpose of any supply by him in the United Kingdom, or
- (b) a supply or importation of goods which the claimant has removed or intends to remove to another member State, or which he has exported or intends to export to a place outside the member States.

### **VAT which will not be repaid**

**177.** —

(1) The following VAT shall not be repaid—

- (a) VAT charged on a supply which if made to a taxable person would be excluded from any credit under section 25 of the Act,
- (b) VAT charged on a supply to a travel agent which is for the direct benefit of a traveller other than the travel agent or his employee.

(2) In this regulation a travel agent includes a tour operator and any person who purchases and resupplies services of a kind enjoyed by travellers.

### **Method of claiming**

**178.** —

(1) A person claiming a repayment of VAT under this Part shall—

- (a) complete in the English language and send to the Commissioners either the form numbered 15 in Schedule 1 to these Regulations, or a form designed for the purpose by any official authority, containing full information in respect of all the matters specified in the said form and a declaration as therein set out, and
- (b) at the same time furnish—
  - (i) a certificate of status issued by the official authority of the member State in which the claimant is established either on the form numbered 16 in Schedule 1 to these Regulations or on the form designed by the official authority for the purpose, and
  - (ii) such documentary evidence of an entitlement to deduct VAT as may be required of a taxable person claiming a deduction of input tax in accordance with the provisions of regulation 29.

(2) Where the Commissioners are in possession of a certificate of status issued not more than 12 months before the date of the claim, the claimant shall not be required to furnish a further certificate.

(3) The Commissioners shall refuse to accept any document referred to in paragraph (1)(b)(ii) above if it bears an official stamp indicating that it had been furnished in support of an earlier claim.

### **Time within which a claim must be made**

#### **179. —**

(1) A claim shall be made not later than 6 months after the end of the calendar year in which the VAT claimed was charged and shall be in respect of VAT charged on supplies or on importations from a place outside the member States made during a period of not less than 3 months and not more than one calendar year, provided that a claim may be in respect of VAT charged on supplies or on importations from a place outside the member States made during a period of less than 3 months where that period represents the final part of a calendar year.

(2) No claim shall be made for less than £16.

(3) No claim shall be made for less than £130 in respect of VAT charged on supplies or on importations from a place outside the member States made during a period of less than one calendar year except where that period represents the final part of a calendar year.

### **Deduction of bank charges**

**180.** Where any repayment is to be made to a claimant in the country in which he is established, the Commissioners may reduce the amount of the repayment by the amount of any bank charges or costs incurred as a result thereof.

### **Treatment of claim and repayment claimed**

**181.** For the purposes of section 73 of the Act any claim made under this Part shall be treated as a return required under paragraph 2 of Schedule 11 to the Act.

**182.** For the purpose of section 83(c) of the Act repayments claimed under this Part shall be treated as the amount of any input tax which may be credited to a person.

### **False, altered or incorrect claims**

**183.** If any claimant furnishes or sends to the Commissioners for the purposes of this Part any document which is false or which has been altered after issue to that person, the Commissioners may refuse to repay any VAT claimed by that claimant for the period of 2 years from the date when the claim, in respect of which the false or altered document was furnished or sent, was made.

**184.** Where any sum has been repaid to a claimant as a result of an incorrect claim, the amount of any subsequent repayment to that claimant may be reduced by the said sum.