
STATUTORY INSTRUMENTS

1996 No. 1250

The Value Added Tax (Amendment) (No. 3) Regulations 1996

13. The Part XVI(A) referred to in regulation 12 above shall read as follows.

“PART XVI(A)

FISCAL AND OTHER WAREHOUSING REGIMES

Interpretation of Part XVI(A)

145A.—(1) In this Part unless the context otherwise requires—

“eligible goods” has the meaning given by section 18B(6);

“fiscal warehouse” includes all fiscal warehouses kept by the same fiscal warehousekeeper;

“material time” has the meaning given by section 18F(1) in the case of a fiscal warehousing regime and section 18(6) in the case of a warehousing regime;

“regulation” or “regulations” refers to the relevant regulation or regulations of these Regulations; and,

“section” or “sections” refers to the relevant section or sections of the Act.

(2) For the purposes of this Part, where a fiscal warehousekeeper keeps one or more fiscal warehouses there shall be associated with him a single fiscal warehousing regime; and “relevant fiscal warehousekeeper”, “relevant fiscal warehouse”, “relevant fiscal warehousing regime”, “his fiscal warehouse”, “his fiscal warehousing regime” and similar expressions shall be construed in this light.

Fiscal warehousing certificates

145B.—(1) The certificate referred to in section 18B(1)(d) (certificate relating to acquisitions in or intended for fiscal warehousing) and the certificate referred to in section 18B(2)(d) (supplies of goods intended for fiscal warehousing) shall contain the information indicated in the form numbered 17 in Schedule 1 to these Regulations.

(2) A certificate prepared under section 18B(1)(d) by an acquirer who is not a taxable person shall be kept by him for a period of six years commencing on the day the certificate is prepared; and he shall produce it to a proper officer when that officer requests him to do so.

Certificates connected with services in fiscal or other warehousing regimes

145C. The certificate referred to in section 18C(1)(c) (certificate required for the zero-rating of certain services performed on or in relation to goods while those goods are subject to a fiscal or other warehousing regime) shall contain the information indicated in the form numbered 18 in Schedule 1 to these Regulations.

VAT invoices relating to services performed in fiscal or other warehousing regimes

145D.—(1) This regulation applies to the invoice referred to in section 18C(1)(e) (invoice required for the zero-rating of the supply of certain services performed on or in relation to goods while those goods are subject to a fiscal or other warehousing regime).

(2) The invoice shall be known as a VAT invoice and shall state the following particulars (unless the Commissioners allow any requirement of this paragraph to be relaxed or dispensed with)—

- (a) an identifying number,
- (b) the material time of the supply of the services in question,
- (c) the date of the issue of the invoice,
- (d) the name, an address and the registration number of the supplier,
- (e) the name and an address of the person to whom the services are supplied,
- (f) a description sufficient to identify the nature of the services supplied,
- (g) the extent of the services and the amount payable, excluding VAT, expressed in sterling,
- (h) the rate of any cash discount offered,
 - (i) the rate of VAT as zero per cent, and
- (j) a declaration that in respect of the supply of services in question, the requirements of section 18C(1) will be or have been satisfied.

(3) The supplier of the services in question shall issue the invoice to the person to whom the supply is made within thirty days of the material time of that supply of services (or within such longer period as the Commissioners may allow in general or special directions).

Fiscal warehousing regimes

145E.—(1) Upon any eligible goods entering a fiscal warehouse the relevant fiscal warehousekeeper shall record their entry in his relevant fiscal warehousing record.

- (2) Eligible goods shall only be subject to or in a fiscal warehousing regime at any time—
- (a) while they are allocated to that regime in the relevant fiscal warehousing record;
 - (b) while they are not identified in that record as having been transferred; or,
 - (c) prior to their removal from that regime.

The fiscal warehousing record and stock control

145F.—(1) In addition to the records referred to in regulation 31, a fiscal warehousekeeper shall maintain a fiscal warehousing record for any fiscal warehouse in respect of which he is the relevant fiscal warehousekeeper.

(2) The fiscal warehousing record may be maintained in any manner acceptable to the Commissioners. In particular, it shall be capable of—

- (a) ready use by any proper officer in the course of his duties; and
- (b) reproduction into a form suitable for any proper officer to readily use at a place other than the relevant fiscal warehouse.

(3) Subject to paragraph (4) below, the fiscal warehousing record shall have the features and shall comply with the requirements set out in Schedule 1A to these Regulations.

(4) In respect of any goods the relevant fiscal warehousing record shall not be required to record events more than six years following—

- (a) the transfer or removal of those goods from the relevant fiscal warehousing regime; or,
 - (b) the exit of those goods from the relevant fiscal warehouse (in the case of goods which were not allocated to the relevant fiscal warehousing regime).
- (5) A fiscal warehousekeeper, upon receiving a request to do so from any proper officer, shall—
- (a) produce his fiscal warehousing record to that officer and permit him to inspect or take copies of it or of any part of it (as that officer shall require); or,
 - (b) facilitate and permit that officer to inspect any goods which are stored or deposited in his fiscal warehouse (whether or not those goods are allocated to the relevant fiscal warehousing regime).

Fiscal warehousing transfers in the United Kingdom

145G.—(1) Subject to paragraphs (2) and (3) below, a fiscal warehousekeeper (“the original fiscal warehousekeeper”) may permit eligible goods which are subject to his fiscal warehousing regime (“the original regime”) to be transferred to another fiscal warehousing regime (“the other regime”) without those goods being treated as removed from the original regime.

(2) The original fiscal warehousekeeper shall not allow eligible goods to exit from his fiscal warehouse in pursuance of this regulation before he receives a written undertaking from the fiscal warehousekeeper in relation to that other fiscal warehousing regime (“the other fiscal warehousekeeper”) that, in respect of those eligible goods, the other fiscal warehousekeeper will comply with the requirements of paragraph (3) below.

(3) The other fiscal warehousekeeper, upon the entry of the goods to his fiscal warehouse, shall—

- (a) record that entry in his fiscal warehousing record; and,
- (b) allocate those goods to his fiscal warehousing regime.

Furthermore, within 30 days commencing with the day on which those goods left the original fiscal warehouse, he shall—

- (c) deliver or cause to be delivered to the original fiscal warehousekeeper a certificate in a form acceptable to the Commissioners confirming that he has recorded the entry of those goods to his fiscal warehouse and allocated them to his fiscal warehousing regime; and,
- (d) retain a copy of that certificate as part of his fiscal warehousing record.

Removal of goods from a fiscal warehousing regime and transfers overseas

145H.—(1) Without prejudice to sections 18F(5), 18F(6) and the following paragraphs of this regulation, eligible goods which are allocated to a fiscal warehousing regime shall only be removed from that regime at the time and in any of the following circumstances—

- (a) when an entry in respect of those eligible goods is made in the relevant fiscal warehousing record which indicates the time and date of their removal from that regime;
- (b) when the eligible goods are moved outside the fiscal warehouse in respect of which they are allocated to a fiscal warehousing regime (except in the case of movements between fiscal warehouses kept by the same fiscal warehousekeeper); or,

(c) at the time immediately preceding a retail sale of those eligible goods.

The person who shall be treated as the person who removes or causes the removal of the relevant goods from the relevant fiscal warehousing regime in any of the circumstances described above shall be, as the case requires, either the person who causes any of those circumstances to occur or, in the case of sub-paragraph (c), the person who makes the retail sale referred to there.

(2) Subject to paragraph (3) below, eligible goods which are subject to a fiscal warehousing regime shall not be treated as removed from that regime but shall be treated as transferred or as being in the process of transfer, as the case requires, in any of the following circumstances—

- (a) where the goods in question are transferred or are in the process of transfer to another fiscal warehousing regime in pursuance of regulation 145G(1) above;
- (b) where the goods in question are transferred or are in the process of transfer to arrangements which correspond in effect, under the law of another member State, to section 18B(3) (fiscal warehousing) whether or not those arrangements also correspond in effect to section 18C(1) (zero-rating of certain specified services performed in a fiscal or other warehousing regime);
- (c) where the goods in question are exported or are in the process of being exported to a place outside the member States; or,
- (d) where the goods in question are moved temporarily to a place other than the relevant fiscal warehouse for repair, processing, treatment or other operations (subject to the prior agreement of and to conditions to be imposed by the Commissioners).

(3) Where any relevant document referred to in paragraph (4) below is not received by the relevant fiscal warehousekeeper within the time period indicated there (commencing on the day on which the relevant eligible goods leave his fiscal warehouse), he shall—

- (a) make an entry by way of adjustment to his fiscal warehousing record to show the relevant goods as having been removed from his fiscal warehousing regime at the time and on the day when they left;
- (b) identify in his fiscal warehousing record the person on whose instructions he allowed the goods to leave his fiscal warehouse as the person removing those goods and that person's address and registration number (if any); and,
- (c) notify the person on whose instructions he allowed the goods to leave his fiscal warehouse that the relevant document has not been received by him in time.

(4) The document and time period referred to in paragraph (3) above is, as the case requires, either—

- (a) the certificate referred to in regulation 145G(3)(c) confirming the completion of a transfer of eligible goods from the relevant fiscal warehousing regime to another fiscal warehousing regime (30 days);
- (b) a document evidencing the completion of the transfer of the eligible goods from the relevant fiscal warehousing regime directly to arrangements which correspond, in another member State, to fiscal warehousing (60 days); or,
- (c) a document evidencing the export of the eligible goods from the relevant fiscal warehousing regime to a place outside the member States (60 days).

145I.—(1) A fiscal warehousekeeper shall not remove or allow the removal of any eligible goods from his fiscal warehousing regime at any time before—

- (a) he has inspected and placed on his fiscal warehousing record a copy of the relevant document issued by the Commissioners under regulation 145J(1) (removal document); or,
- (b) he is provided with the registration number of a person registered under the Act and a written undertaking from that person that any VAT payable by that person as the result of any removal of eligible goods from that fiscal warehousing regime will be accounted for on that person's return in accordance with regulation 40(1)(c).

(2) Without prejudice to section 18E, where a fiscal warehousekeeper allows the removal of any eligible goods to take place from his fiscal warehousing regime otherwise than in accordance with this regulation, he shall be jointly and severally liable with the person who removes the goods for the payment of the VAT payable under section 18D(2) to the Commissioners.

(3) Paragraphs (1) and (2) above shall not apply to a removal which is the result of an entry in the relevant fiscal warehousing record made by the relevant fiscal warehousekeeper in compliance with regulation 145H(3)(a) (non-receipt of a document following transfer or export).

Payment on removal of goods from a fiscal warehousing regime

145J.—(1) The Commissioners may, in respect of a person who is seeking to remove or cause the removal of eligible goods from a fiscal warehousing regime,—

- (a) accept from or on behalf of that person payment of the VAT payable (if any) as a result of that removal, and
- (b) issue to that person a document bearing a reference or identification number.

(2) The Commissioners need not act in accordance with paragraph (1) above unless, as the case requires, they are satisfied as to—

- (a) the value and material time of any supply of the relevant goods in the fiscal warehousing regime which is treated as taking place in the United Kingdom under section 18B(4) and the status of the person who made that supply;
- (b) the nature and quantity of the relevant eligible goods;
- (c) the value of any relevant self-supplies of specified services treated as made under section 18C(3) in the course or furtherance of his business by the person who is to remove the relevant goods, or by the person on whose behalf the goods are to be removed, at the time they are removed from the fiscal warehousing regime; and,
- (d) the nature and material time of any relevant supplies of specified services in respect of which the self-supplies referred to in sub-paragraph (c) above are treated as being identical (certain supplies of services on or in relation to goods while those goods are subject to the fiscal warehousing regime).

(3) In paragraph (2)(a) above “status” is a reference to whether the person in question—

- (a) is or is required to be registered under the Act, or
- (b) would be required to be registered under the Act were it not for paragraph 1(9) of Schedule 1 to the Act, paragraph 1(7) of Schedule 2 to the Act, paragraph 1(6) of Schedule 3 to the Act, or any of those provisions.”