

2003 No. 3220

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 6) Regulations 2003

<i>Made</i>	- - - -	<i>9th December 2003</i>
<i>Laid before the House of Commons</i>		<i>10th December 2003</i>
<i>Coming into force</i>		
<i>for the purposes of Part 5</i>		<i>11th December 2003</i>
<i>for all other purposes</i>		<i>1st January 2004</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 6(14), 12(1)(b), 26(1), (3) and (4), 26B and 36(5)(e) and (f) and (7) of, and paragraphs 2(1), 2A(1), 2A(2), 2A(3), 2A(4), 2A(5), 2A(6), 2A(7), 2B(2), 2B(4), 2B(5), 2(11), 3(1), 3(3) and 6(1) of Schedule 11 to, the Value Added Tax Act 1994(a), hereby make the following regulations:

PART 1

PRELIMINARY

Citation and commencement

1.—(1) These Regulations may be cited as the Value Added Tax (Amendment) (No. 6) Regulations 2003 and come into force—

- (a) for the purposes of Part 5 (bad debt relief) on 11th December 2003, and
- (b) for all other purposes on 1st January 2004.

(2) Part 4 (partial exemption) has effect in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after 1st January 2004.

Amendment

2. The Value Added Tax Regulations 1995(b) are amended in accordance with the following Parts.

(a) 1994 c. 3; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners under the Act. Section 26B was added by section 23 of the Finance Act 2002 (c. 23). Section 36(5)(e) was amended by section 15(2) of the Finance Act 1999 (c. 16). Section 24 of the Finance Act 2002, which amends Schedule 11 to the Act, was brought into force on 1st December 2003, the day appointed by S.I. 2003/3043 (C. 114). Paragraph 2(1) of Schedule 11 was thus amended, paragraphs 2A and 2B inserted and paragraph 3 substituted.

(b) S.I. 1995/2518; relevant amending instruments are S.I. 1995/3147, S.I. 1996/1250, S.I. 1997/2887, S.I.1998/765, S.I. 2002/2918, S.I. 2003/1069 and S.I. 2003/2318 (invoicing), S.I. 2002/1142 and S.I. 2003/1069 (flat-rate scheme for small businesses), S.I. 1996/1250 (partial exemption), and S.I. 1999/3029 and S.I. 2002/3027 (bad debt relief).

PART 2

INVOICING

3. Before regulation 13 insert—

“Interpretation of Part 3

A13. In this Part—

- (a) “advanced electronic signature” means an electronic signature which meets the following requirements—
 - (i) it is uniquely linked to the signatory;
 - (ii) it is capable of identifying the signatory;
 - (iii) it is created using means that the signatory can maintain under his sole control; and
 - (iv) it is linked to the data to which it relates in such a manner that any subsequent change of the data is detectable;
- (b) “electronic data interchange” or “EDI” means the electronic transfer, from computer to computer, of commercial and administrative data using an agreed standard to structure an EDI message;
- (c) “EDI message” means a set of segments, structured using an agreed standard, prepared in a computer readable format and capable of being automatically and unambiguously processed;
- (d) “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication;
- (e) “electronic storage of invoices” means storage using electronic equipment for processing (including digital compression) and storage of data employing wires, radio transmission, optical technologies or other electromagnetic means;
- (f) “electronic transmission” in relation to invoices means transmission or making available to the recipient using electronic equipment employing wires, radio transmission, optical technologies or other electromagnetic means;
- (g) “signatory” means a person who holds a signature-creation device and acts either on his own behalf or on behalf of the natural or legal person or entity he represents.”.

4. In regulation 13—

- (a) for paragraph (3) substitute—

“(3) Where a registered person provides a document to himself (“a self-billed invoice”) that purports to be a VAT invoice in respect of a supply of goods or services to him by another registered person, that document shall be treated as the VAT invoice required to be provided by the supplier under paragraph (1)(a) if it complies with the conditions set out in paragraph (3A) and with any further conditions that may be contained in a notice published by the Commissioners or may be imposed in a particular case.”.

- (b) after paragraph (3) insert—

“(3A) The following conditions must be complied with if a self-billed invoice is to be treated as a VAT invoice—

- (a) it must have been provided pursuant to a prior agreement (“a self-billing agreement”) entered into between the supplier of the goods or services to which it relates and the recipient of the goods or services (“the customer”) and which satisfies the requirements in paragraph (3B);
- (b) it must contain the particulars required under regulation 14(1) or (2);

(c) it must relate to a supply or supplies made by a supplier who is a taxable person.

(3B) A self-billing agreement must—

- (a) authorise the customer to produce self-billed invoices in respect of supplies made by the supplier for a specified period which shall end not later than either—
 - (i) the expiry of a period of 12 months, or
 - (ii) the expiry of the period of any contract between the customer and the supplier for the supply of the particular goods or services to which the self-billing agreement relates;
- (b) specify that the supplier will not issue VAT invoices in respect of supplies covered by the agreement;
- (c) specify that the supplier will accept each self-billed invoice created by the customer in respect of supplies made to him by the supplier;
- (d) specify that the supplier will notify the customer if he ceases to be a taxable person or if he changes his registration number.

(3C) Without prejudice to any term of a self-billing agreement, it shall be treated as having expired when—

- (a) the business of the supplier is transferred as a going concern;
- (b) the business of the customer is transferred as a going concern;
- (c) the supplier ceases to be registered for VAT.

(3D) In addition to the matters set out in paragraph (3B)—

- (a) conditions that must be complied with may be set out in a notice published by the Commissioners;
- (b) the Commissioners may impose further conditions in particular cases.

(3E) Where a customer in another member State provides a document to himself in respect of a supply of goods or services to him by a registered person, that document shall be treated as the VAT invoice required to be provided by the supplier under paragraph 1(b) or (c) if it complies with the conditions set out in paragraph (3A).

(3F) For the purposes of the following, a self-billed invoice will not be treated as issued by the supplier (however the supplier may be described in the provision concerned)—

- (a) regulation 84(2)(b)(ii);
- (b) regulation 85(1)(b);
- (c) regulation 85(2);
- (d) regulation 86(1);
- (e) regulation 86(2)(b);
- (f) regulation 86(3);
- (g) regulation 88(1)(b);
- (h) regulation 89(b)(ii);
- (i) regulation 90(1)(b);
- (j) regulation 90(2);
- (k) regulation 91;
- (l) regulation 92(b);
- (m) regulation 93(1)(b);
- (n) regulation 94B(6)(a).”.

5. After regulation 13 insert—

“Electronic invoicing

13A.—(1) This regulation applies where a document is provided by a registered person by electronic transmission that purports to be a VAT invoice in respect of a supply of goods or services.

(2) The document is not to be treated as the VAT invoice required to be provided by the supplier under regulation 13(1) unless—

- (a) both the supplier and the customer are able to guarantee the authenticity of the origin and integrity of the contents by one of the following means—
 - (i) an advanced electronic signature;
 - (ii) EDI;
 - (iii) where the document relates to supplies of goods or services made in the United Kingdom, such other electronic means as may be approved by the Commissioners in any particular case;
- (b) the supplier has complied with any conditions imposed by the Commissioners.

(3) When the document is a self-billed invoice that purports to be a VAT invoice, paragraph (2)(b) applies as if the reference to the supplier is to the customer.

(4) Where an invoice has been provided or received that meets the conditions in paragraph (2) the supplier and the customer must preserve the means adopted for guaranteeing the authenticity of the origin and integrity of the contents under paragraph 2(a) for such time as the invoice is preserved.”.

6. After regulation 13A insert—

“**13B.** Where a VAT invoice or part of a VAT invoice is in a language other than English the Commissioners may, by notice in writing, require that an English translation of the invoice is provided to them by a person who has received such an invoice in the United Kingdom within 30 days of the date of the notice.”.

7. In regulation 14(1)—

- (a) omit sub-paragraphs (f) and (k),
- (b) in sub-paragraph (h) for “sterling” substitute “any currency”,
- (c) in sub-paragraph (i) for “sterling” substitute “any currency”,
- (d) after sub-paragraph (l) add “(m) the unit price.”.

8. In regulation 14(2)—

- (a) for the words at the beginning substitute—

“Save as the Commissioners may otherwise allow, where a registered person provides a person in another member State with a VAT invoice or any document that refers to a VAT invoice and is intended to amend it, he must ensure that it states thereon the following particulars—”,

- (b) in sub-paragraph (a) for “(a) to (g) and (j)” substitute “(a) to (e), (g), (j) and (m)”,
- (c) in sub-paragraph (g) for “sub-paragraphs (k) and (l)” substitute “sub-paragraph (l)”.

9. After regulation 14(6) insert—

“(7) Where a registered person provides documents in batches to the same recipient by electronic transmission that purport to be VAT invoices in respect of supplies of goods or services made to, or received by, him, as an exception to the requirements in regulation 14(1) and 14(2), details common to each such document need only be stated once for each batch file.”.

10. In regulation 16(1) for “£100” substitute “£250”.

11. In regulation 31(1) after sub-paragraph (i) insert—

- “(j) a copy of any self-billing agreement within regulation 13(3A) to which he is a party;
- (k) where he is a customer, party to a self-billing agreement within regulation 13(3A), the name, address and VAT registration number of each supplier with whom he has entered into a self-billing agreement.”.

12. In regulation 83 for the words after “supplier” substitute—

“or the customer and which, in either case, is issued under the provisions of the law of the member State where the goods were supplied, corresponding in relation to that member State to the provisions of regulations 13, 13A and 14.”.

13. In regulation 84(2)(a) omit “, (9)”.

14. In regulation 87 for the words after “occasion that” substitute “an invoice such as is described in regulation 83 is issued.”.

15. In regulation 88(2) after “appropriated” insert “or a self-billed invoice fulfilling the conditions in regulation 13(3A) is issued by the customer”.

16. In regulation 89(a) omit “(9),”.

PART 3

FLAT-RATE SCHEME FOR SMALL BUSINESSES

17. In regulation 55B(1)(a) (start date), after “notified” omit “in writing”.

18.—(1) In regulation 55A(1) (interpretation)—

- (a) omit the definitions of “amendment date” and “change date”,
- (b) immediately before the definition of “end date” insert—
“ “EDR” means the day with effect from which a person is registered under the Act;”,
- (c) after paragraph (2) insert—

“(3) For the purposes of this Part, “relevant date”, in relation to a flat-rate trader, means any of the following—

- (a) his start date;
- (b) the first day of the prescribed accounting period current at any anniversary of his start date;
- (c) any day on which he first carries on a new business activity;
- (d) any day on which he no longer carries on an existing business activity;
- (e) any day with effect from which the Table is amended in relation to him;
- (f) where regulation 55JB (reduced rate for newly registered period) applies—
 - (i) the day that his newly registered period begins, and
 - (ii) the first anniversary of his EDR.”.

(2) In regulation 55D (method of accounting), for “regulations 55J and 55JA”, substitute “regulations 55H and 55JB”.

(3) In regulation 55K (category of business), omit paragraph (2).

(4) For regulation 55N(1) and (2) (notification), substitute—

“(1) Where—

- (a) at the first day of the prescribed accounting period current at any anniversary of his start date,

- (b) the appropriate percentage to be applied by a flat-rate trader in accordance with regulation 55H(2)(a) for the prescribed accounting period just beginning differs from that applicable to his relevant turnover at the end of the previous prescribed accounting period,

he must notify the Commissioners of that fact within 30 days of the first day of the prescribed accounting period current at the anniversary of his start date.

(2) Where a flat-rate trader begins to carry on a new business activity or ceases to carry on an existing business activity, he must notify the Commissioners of—

- (a) that fact,
- (b) the date that is the relevant date described by regulation 55A(3)(c) or (d) (as the case may be), and
- (c) the appropriate percentage to be applied to the period immediately before that relevant date and immediately after it,

within 30 days of that relevant date.”.

19.—(1) For regulations 55H to 55JA (appropriate percentage), substitute—

“**55H.**—(1) The appropriate percentage to be applied by a flat-rate trader for any prescribed accounting period, or part of a prescribed accounting period (as the case may be), shall be determined in accordance with this regulation and regulations 55JB and 55K.

(2) For any prescribed accounting period—

- (a) beginning with a relevant date, the appropriate percentage shall be that specified in the Table for the category of business that he is expected, at the relevant date, on reasonable grounds, to carry on in that period;
- (b) current at his start date but not beginning with his start date, the appropriate percentage shall be that specified in the Table for the category of business that he is expected, at his start date, on reasonable grounds, to carry on in the remainder of the period;
- (c) not falling within (a) or (b), the appropriate percentage shall be that applicable to his relevant turnover at the end of the previous prescribed accounting period.

(3) Except that, where a relevant date other than his start date occurs on a day other than the first day of a prescribed accounting period, the following rules shall apply for the remainder of that prescribed accounting period—

- (a) for the remaining portion, the appropriate percentage shall be that specified in the Table for the category of business that he is expected, at the relevant date, on reasonable grounds, to carry on in that period;
- (b) “remaining portion” means that part of the prescribed accounting period in which the relevant date occurs—
 - (i) starting with the relevant date, and
 - (ii) ending on the last day of that prescribed accounting period;
- (c) the appropriate percentage specified in sub-paragraph (a) shall be applied to his relevant turnover in the remaining portion described;
- (d) if the rules set out in paragraphs (a) to (c) apply and then another relevant date occurs in the same prescribed accounting period, then—
 - (i) the existing remaining portion ends on the day before the latest relevant date,
 - (ii) another remaining portion begins on the latest relevant date, and
 - (iii) the rules in paragraph (a) to (c) shall be applied again in respect of the latest remaining portion.”

(2) Immediately before regulation 55K, insert—

“Reduced appropriate percentage for newly registered period

55JB.—(1) This regulation applies where a flat-rate trader’s start date falls within one year of his EDR.

- (2) Except that this regulation does not apply where—
 - (a) the Commissioners received notification of, or otherwise became fully aware of, his liability to be registered more than one year after his EDR, or
 - (b) his end date or the first anniversary of his EDR falls before 1st January 2004.
- (3) At any relevant date on or after 1st January 2004 falling within his newly registered period, the Table shall be read as if each percentage specified in the right-hand column were reduced by one.
- (4) A flat-rate trader’s “newly registered period” is the period—
 - (a) beginning with the later of—
 - (i) his start date; and
 - (ii) the day the Commissioners received notification of, or otherwise became fully aware of, his liability to be registered under the Act, and
 - (b) ending on the day before the first anniversary of his EDR.”.

20. In regulation 55K (category of business), for the Table substitute—

Table

<i>Category of business</i>	<i>Appropriate percentage</i>
Retailing food, confectionery, tobacco, newspapers or children’s clothing	2
Membership organisation Postal and courier services Pubs Wholesaling food	5.5
Farming or agriculture that is not listed elsewhere Retailing that is not listed elsewhere Wholesaling agricultural products	6
Retailing pharmaceuticals, medical goods, cosmetics or toiletries Retailing vehicles or fuel Sport or recreation Wholesaling that is not listed elsewhere	7
Agricultural services Library, archive, museum or other cultural activity Manufacturing food Printing Repairing vehicles	7.5
General building or construction services* Hiring or renting goods Manufacturing that is not listed elsewhere Manufacturing yarn, textiles or clothing Packaging Repairing personal or household goods Social work	8.5
Forestry or fishing Mining or quarrying Transport or storage, including freight, removals and taxis Travel agency	9

Advertising Dealing in waste or scrap Hotel or accommodation Photography Publishing Veterinary medicine	9.5
Any other activity not listed elsewhere Investigation or security Manufacturing fabricated metal products	10
Boarding or care of animals Film, radio, television or video production	10.5
Business services that are not listed elsewhere Computer repair services Entertainment or journalism Estate agency or property management services Laundry or dry-cleaning services Secretarial services	11
Financial services	11.5
Catering services, including restaurants and takeaways Hairdressing or other beauty treatment services Real estate activity not listed elsewhere	12
Architect, civil and structural engineer or surveyor Management consultancy	12.5
Accountancy or book-keeping Computer and IT consultancy or data processing Lawyer or legal services	13
Labour-only building or construction services*	13.5

* “Labour-only building or construction services” means building or construction services where the value of materials supplied is less than 10 per cent. of relevant turnover from such services; any other building or construction services are “general building or construction services”.

PART 4

PARTIAL EXEMPTION

21. After regulation 102 insert—

“102A.—(1) Where a taxable person—

- (a) is for the time being using a method approved or directed under regulation 102, and
- (b) that method does not fairly and reasonably represent the extent to which goods or services are used by him or are to be used by him in making taxable supplies,

the Commissioners may serve on him a notice to that effect, setting out their reasons in support of that notification and stating the effect of the notice.

(2) The effect of a notice served under this regulation is that regulation 102B shall apply to the person served with the notice in relation to—

- (a) prescribed accounting periods commencing on or after the date of the notice or such later date as may be specified in the notice, and
- (b) longer periods to the extent of that part of the longer period falling on or after the date of the notice or such later date as may be specified in the notice.

102B.—(1) Where this regulation applies, a taxable person shall calculate the difference between—

- (a) the attribution made by him in any prescribed accounting period or longer period, and
- (b) an attribution which represents the extent to which the goods or services are used by him or are to be used by him in making taxable supplies,

and account for the difference on the return for that prescribed accounting period or on the return on which that longer period adjustment is required to be made, except where the Commissioners allow another return to be used for this purpose.

(2) This regulation shall apply from the date prescribed under regulation 102A(2) or 102C(2), unless or until the method referred to in regulation 102A(1)(a) or 102C(1)(a) is terminated under regulation 102(3).

102C.—(1) Subject to regulation 102A, where a taxable person—

- (a) is for the time being using a method approved or directed under regulation 102, and
- (b) that method does not fairly and reasonably represent the extent to which goods or services are used by him or are to be used by him in making taxable supplies,

the taxable person may serve on the Commissioners a notice to that effect, setting out his reasons in support of that notification.

(2) Where the Commissioners approve a notice served under this regulation, the effect is that regulation 102B shall apply to the person serving the notice in relation to—

- (a) prescribed accounting periods commencing on or after the date of the notice or such later date as may be specified in the notice, and
- (b) longer periods to the extent of that part of the longer period falling on or after the date of the notice or such later date as may be specified in the notice.”.

PART 5

BAD DEBT RELIEF

22. In regulation 171(5), after “regulation” insert “, but subject to paragraph (6) below,”.

23. After regulation 171(5) insert—

“(6) Paragraph (5) above does not apply where any person to whom the right to receive a payment has been assigned (whether by the claimant or any other person) is connected to the claimant.

(7) Any question for the purposes of paragraph (6) above whether any person is connected to the claimant shall be determined in accordance with section 839 of the Taxes Act(a).

(8) Paragraphs (6) and (7) above apply where the right to receive a payment is assigned on or after 11th December 2003.”.

New King’s Beam House
22 Upper Ground
London SE1 9PJ

9th December 2003

Ray McAfee
Commissioner of Customs and Excise

(a) section 96(1) of the Value Added Tax Act 1994 defines “the Taxes Act” as the Income and Corporation Taxes Act 1988 (c.1). Section 839 was amended by section 74 of, and paragraph 20 of Part 2 of Schedule 17 to, the Finance Act 1995 (c.4).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 11th December 2003 (for the purposes of Part 5 – bad debt relief) and 1st January 2004 (for all other purposes), further amend the Value Added Tax Regulations 1995 (S.I.1995/2518) (“the principal Regulations”).

Regulation 1 makes discrete provision in relation to commencement.

Invoicing

Part 2 of these Regulations makes amendments to the principal Regulations to implement Council Directive 2001/115/EC (OJ L015,17.01.02 p.24). A transposition note in respect of this implementation is available at www.hmce.gov.uk.

Regulation 3 inserts an interpretation provision at the beginning of Part 3 of the principal Regulations (new regulation A13).

Regulation 4 makes amendments relating to self-billed invoices and the time of supply in relation to self-billing.

Regulation 5 inserts a new Regulation 13A, relating to the electronic transmission and storage of invoices.

Regulation 6 inserts a new regulation 13B enabling the Commissioners of Customs and Excise, by notice, to require an invoice received in the United Kingdom to be translated into English.

Regulation 7 makes amendments to the list of items of information required by regulation 14(1) to be shown on a VAT invoice.

Regulation 8 makes amendments to regulation 14(2) relating to VAT invoices provided to persons in other member States.

Regulation 9 amends regulation 14 by providing that the information required to be shown on a VAT invoice need only be shown once where a batch of invoices is sent to a single recipient.

Regulation 10 amends regulation 16(1) by increasing the amount below which a retailer need not provide a VAT invoice from £100 to £250.

Regulation 11 amends regulation 31 (records). Firstly a party to a self-billing agreement is required to retain a copy of any such agreement. Secondly all customers who are party to self-billing agreements must retain details of the name, address and registration number of every supplier with whom they have such an agreement.

Regulation 12 amends regulation 83 of the principal Regulations to provide, in relation to an acquisition of goods from another member State that, in addition to the time the supplier issues an invoice, the time of acquisition may be the time that an invoice of the necessary description is issued by the customer.

Regulations 13 and 16 make consequential amendments to regulations 84 and 89 respectively to remove references to section 6(9) of the Act (which was repealed by section 24(1)(a) of the Finance Act 2002 (c. 23)).

Regulation 14 makes a consequential amendment to regulation 87 following the amendment made in regulation 12 to regulation 83.

Regulation 15 amends regulation 88(2) to provide that, in addition to the existing circumstances, a self-billed invoice may create the time of supply.

A full regulatory impact assessment of the effect that implementation of the Directive will have on the costs of business was published on 1st November 2001 and is available at www.hmce.gov.uk.

Flat-rate scheme for small businesses

Part 3 of these Regulations makes provision in respect of the flat-rate scheme for small businesses established by Part 7A of the principal Regulations (“FRS”).

Regulation 17 amends regulation 55B of the principal Regulations so that the date with effect from which a person is authorised to operate the FRS is (unless he and the Commissioners agree to the contrary) determined by reference to the date of his request for authorisation, whether or not that request is made in writing.

Regulation 19 substitutes a new regulation 55H for regulations 55H to 55JA of the principal Regulations and also inserts a new regulation 55JB. The new regulation 55H sets out the basic rules regarding how a person operating the FRS must determine which appropriate percentage he must apply. These rules are not substantively changed, but are rewritten as a consequence of the new regulation 55JB. The new regulation 55JB provides for a reduction in the appropriate percentage for flat-rate traders in their first year of VAT registration.

Regulation 18 makes consequential amendments, including the addition of new definitions of “EDR” and “relevant date” for the purposes of the FRS.

Regulation 20 substitutes a new Table of categories of business and appropriate percentages in regulation 55K of the principal Regulations. Most of the categories and all of the appropriate percentages differ from those set out in the previous Table.

A full regulatory impact assessment on the changes to the FRS was published on 10th December 2003 and is available at www.hmce.gov.uk.

Partial Exemption

Part 4 of these Regulations deals with situations where the use of the partial exemption special method approved or directed under regulation 102 of the principal Regulations does not produce a result that is fair and reasonable. It applies to input tax incurred on or after 1 January 2004.

Regulation 21 inserts new regulations 102A to 102C into the principal Regulations.

New regulation 102A allows the Commissioners, where they consider a taxable person’s attribution of input tax according to his method in force under regulation 102 does not fairly and reasonably represent an attribution based on the use or intended use of the input goods and services, to serve on him a notice to that effect. Subsequently the taxable person must follow the procedure laid down in new regulation 102B.

New regulation 102B provides for an adjustment to be made where the input tax attributed to taxable supplies according to the method in force under regulation 102 differs from an attribution based on the use or intended use of the input goods and services. The procedure laid down in this regulation applies unless or until the Commissioners approve or direct a method under regulation 102, or allow the method specified in regulation 101 to be used.

New regulation 102C allows taxpayers to serve a notice on the Commissioners in the same circumstances as described in new regulation 102A. Where the Commissioners approve such a notice, the taxpayer must follow the procedure laid down in new regulation 102B.

A full regulatory impact assessment has not been produced for Part 4 of this instrument as it has no impact on the costs of business.

Bad Debt Relief

Part 5 of these Regulations amends regulation 171 of the principal Regulations in order to prevent potential avoidance.

Regulation 171 requires a person who has received a refund upon a claim for bad debt relief to repay this to the Commissioners of Customs and Excise to the extent that a payment for the relevant supply is subsequently received. However, by virtue of regulation 171(5), “payment” does not include a payment received by a person to whom a right to receive it has been assigned.

Part 5 of these Regulations limits the scope of the exclusion contained in regulation 171(5) by inserting new paragraphs (6), (7) and (8). These provide that, where the right to receive a payment is assigned on or after 11th December 2003, regulation 171(5) does not apply if the claimant and assignee are connected, as determined by section 839 of the Income and Corporation Taxes Act 1988 (c.1).

A full regulatory impact assessment has not been produced for Part 5 of this instrument as it has no impact on the costs of business.

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