

2007 No. 2085

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 5) Regulations 2007

Made - - - - *20th July 2007*

Laid before the House of Commons *23rd July 2007*

Coming into force in accordance with regulation 1(2)

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 49(2), (2A) and (3) of, and paragraphs 2A, 2B and 3 of Schedule 11 to, the Value Added Tax Act 1994(a):

Citation and commencement

1.—(1) These Regulations may be cited as the Value Added Tax (Amendment) (No. 5) Regulations 2007.

(2) These Regulations come into force as follows—

- (a) regulations 1 and 2 come into force on 1st September 2007;
- (b) regulations 3, 4 and 5 come into force on 1st September 2007, and have effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date; and
- (c) the remaining regulations come into force on 1st October 2007.

Amendment of the Value Added Tax Regulations 1995

2. The Value Added Tax Regulations 1995(b) are amended as follows.

Transfer of a going concern

3. In regulation 6(1)—

- (a) in sub-paragraph (a) after “business” insert “or part of a business”.
- (b) in sub-paragraph (c) after “business” insert “or part of it”.
- (c) in sub-paragraph (d) after “business” insert “or the part transferred”.

(a) 1994 c.23; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning the regulations made by the Commissioners under the Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 49(2A) of the Value Added Tax Act 1994 was inserted by section 100(4) of the Finance Act 2007 (c.11) and section 49(2) and (3) of the Value Added Tax Act 1994 was amended by section 100(3) and (5) of the Finance Act 2007. Paragraphs 2A and 2B of Schedule 11 were inserted by section 24(2) of the Finance Act 2004 (c.12). Paragraph 3 of Schedule 11 was substituted by section 24(3) of that Act

(b) S.I. 1995/2518; relevant amending instruments are S.I. 1995/3147; S.I. 1996/1250; S.I. 1997/ 1086 and S.I. 2003/3220 and S.I. 2004/1675.

4. In regulation 6(3)—

- (a) after “transferee of a business” insert “or part of a business”;
- (b) for “transferor of that business” substitute “transferor of it”;
- (c) after paragraph (3)(d) omit “and”; and
- (d) after paragraph (3)(e) insert—
 - “, and
 - (f) any records relating to the business which, by virtue of these Regulations or a direction made by the Commissioners, are required to be preserved for any period after the transfer shall be preserved by the transferee unless the Commissioners, at the request of the transferor, otherwise direct.”

5. In regulation 6(4)—

- (a) after “transferee of a business” insert “or part of a business”;
- (b) for “subsequent to that in which the transfer of the business took place” substitute “subsequent to that in which the transfer took place”; and
- (c) for “the date of the transfer of the business” substitute “the date of the transfer”.

VAT invoices

6. In regulation 13 (obligation to provide a VAT invoice)—

- (a) in paragraph (1)(b)—
 - (i) omit “other than an exempt supply”; and
 - (ii) after “member State” insert “for the purpose of any business activity carried out by that person”;
- (b) after paragraph (1) insert—

“(1A) Paragraph (1)(b) above shall not apply where the supply is an exempt supply which is made to a person in a member State which does not require an invoice to be issued for the supply.”.

7. In regulation 14 (contents of VAT invoice)—

- (a) in paragraph (1)(a) for “an identifying number” substitute “a sequential number based on one or more series which uniquely identifies the document”;
- (b) after paragraph (1)(m) insert—
 - “(n) where a margin scheme is applied under section 50A(a) or section 53 of the Act, a relevant reference or any indication that a margin scheme has been applied,
 - (o) where a VAT invoice relates in whole or part to a supply where the person supplied is liable to pay the tax, a relevant reference or any indication that the supply is one where the customer is liable to pay the tax.”;
- (c) in paragraph (2)(a) for “(j) and (m)” substitute “(j), (m), (n) and (o)”;
- (d) after paragraph (2)(f) omit “and”;
- (e) after paragraph (2)(g) insert—
 - “, and
 - (h) where the supply is an exempt or zero-rated supply, a relevant reference or any indication that the supply is exempt or zero-rated as appropriate.”;
- (f) omit paragraph (5); and
- (g) after paragraph (7) insert—

“(8) In this regulation, a “relevant reference” is—

(a) Section 50A was inserted by section 24(1) of the Finance Act 1995 (c.4).

- (a) a reference to the appropriate provision of Council Directive 2006/112/EC(a), or
- (b) a reference to the corresponding provision of the Act.”.

8. For paragraph (2) of regulation 17 (section 14(6) supplies to persons belonging in other member States) substitute—

“(2) An invoice provided under this regulation shall comply with the requirements of regulations 13 and 14.”.

9. In regulation 18 (section 14(1) supplies by intermediate suppliers) delete sub-paragraph (2)(d) (together with the “and” before it).

10. In regulation 19 (section 14(2) supplies by persons belonging in other member States) delete sub-paragraph (2)(d) (together with the “and” before it).

Mike Eland
Dave Hartnett

20th July 2007

Two of the Commissioners for Her Majesty’s Revenue and Customs

(a) OJ No L 347, 11.12.2006, p1.

EXPLANATORY NOTE

(This note is not part of the Order)

Regulations 1, 2, 3, 4 and 5 of these Regulations come into force on 1st September 2007. The remaining Regulations come into force on 1st October 2007. The Regulations amend regulation 6 and Part 3 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the VAT Regulations”). Regulation 6 of the VAT Regulations relates to the transfer of a business as a going concern. Part 3 of the VAT Regulations relates to VAT invoices and other invoicing requirements.

Regulations 3, 4 and 5 amend regulation 6(1), (3) and (4) of the VAT Regulations to clarify that where reference is made to the transfer of a business as a going concern, it includes the transfer of a part of a business.

Regulation 4 also amends regulation 6(3) of the VAT Regulations to require that where the transferee is allocated the registration number of the transferor, the records are passed to, and shall be preserved by, the transferee, unless the Commissioners, at the request of the transferor, direct otherwise.

Regulation 6 amends regulation 13 of the VAT Regulations (obligation to provide a VAT invoice) to make it a requirement that a registered person issues a VAT invoice whenever he makes a business to business supply to a person in another member State other than where the supply is an exempt supply and the recipient member State does not require an invoice.

Regulation 7 amends regulation 14 of the VAT Regulations (contents of VAT invoice) to provide for additional specific information to be shown on invoices covered by that regulation.

Regulation 8 amends regulation 17 of the VAT Regulations (section 14(6) supplies to persons belonging in other member States) to remove one of the requirements for invoices provided under that regulation

Regulation 9 amends regulation 18 of the VAT Regulations (section 14(1) supplies by intermediate suppliers) to remove one of the requirements for invoices provided under that regulation.

Regulation 10 amends regulation 19 of the VAT Regulations (section 14(2) supplies by persons belonging in other member States) to remove one of the requirements for invoices provided under that regulation.

Impact assessments of the effect that the changes made by this instrument will have on the costs of business and the voluntary sector are available from H M Revenue and Customs, 100 Parliament Street, London SW1A 2BQ. The impact assessments and the Transposition Note which has been prepared for this instrument are annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (www.opsi.gov.uk).

£3.00

© Crown copyright 2007

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1077 7/2007 171077T 19585