STATUTORY INSTRUMENTS

2009 No. 1967

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 3) Regulations 2009

Made - - - -	*21st July 2009*
Laid before the House of Commons	*22nd July 2009*
Coming into force - -	*15th August 2009*

The Commissioners for Her Majesty's Revenue and Customs(**a**) make the following Regulations in exercise of the powers conferred by sections 6(14) and 35(2) of the Value Added Tax Act 1994(**b**).

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. 3) Regulations 2009 and come into force on 15th August 2009.

Amendment of the Value Added Tax Regulations 1995

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

Amendment of Part 11 of the Regulations (time of supply and time of acquisition)

3. In regulation 84(5)(e)(**d**), for the words from "of the" to the end, substitute—

"of the Taxes Act(**e**); but this is subject to sub-paragraph (f);

(f) a company is not connected with another company only because both are under the control of—

(i) the Crown,

(ii) a Minister of the Crown,

(iii) a government department, or

(iv) a Northern Ireland department;

(**a**) Section 96(1) of the Value Added Tax Act 1994 (c. 23) defines "the Commissioners" as meaning the Commissioners of Customs and Excise. 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.

(**b**) 1994 c. 23.

(**c**) S.I. 1995/2518.

(**d**) Regulation 84(5) was substituted by S.I. 2003/1069 and amended by S.I. 2008/1146; there are other amendments to regulation 84 but none is relevant.

(**e**) Section 96(1) of the Value Added Tax Act 1994 (c. 23) defines "the Taxes Act" as the Income and Corporation Taxes Act 1988 (c. 1).

(g) "company" and "control" have the same meaning as in section 839 of the Taxes Act(**a**).".

4. In regulation 93(15)(**b**), after "Taxes Act" insert "; but this is subject to paragraph (16).".

5. After regulation 93(15) insert—

"(16) For the purposes of this regulation—

(a) a company is not connected with another company only because both are under the control of—

(i) the Crown,

(ii) a Minister of the Crown,

(iii) a government department, or

(iv) a Northern Ireland department; and

(b) "company" and "control" have the same meaning as in section 839 of the Taxes Act.".

6. For paragraph (4) of regulation 94B(**c**) substitute—

"(4) For the purposes of paragraph (2)—

(a) any question whether one person is connected with another shall be determined in accordance with section 839 of the Taxes Act;

(b) a company is not connected with another company only because both are under the control of—

(i) the Crown,

(ii) a Minister of the Crown,

(iii) a government department, or

(iv) a Northern Ireland department;

(c) "company" and "control" have the same meaning as in section 839 of the Taxes Act; and

(d) "undertaking" and "group undertaking" have the same meaning as in section 1161 of the Companies Act 2006(**d**).".

Amendment of Part 23 of and Schedule 1 to the Regulations (refunds to "do-it-yourself" builders)

7. In regulation 201(a), for the words "the form numbered 11 in Schedule 1 to these Regulations" substitute "the relevant form for the purposes of the claim".

8. After regulation 201 insert—

"**201A.** The relevant form for the purposes of a claim is—

(a) Form 11A in Schedule 1 to these Regulations where the claim relates to works described in section 35(1A)(a) or (b) of the Act(**e**);

(b) Form 11B in Schedule 1 to these Regulations where the claim relates to works described in section 35(1A)(c) of the Act.".

(**a**) 1988 c. 1; section 839 was amended by the Finance Act 1995 (c. 4), section 74 and Schedule 17, paragraph 20; the Finance Act 2006 (c. 25), section 178, Schedule 13, paragraphs 7 and 25 and Schedule 26, Part 3(15); the Income Tax Act 2007 (c. 3), Schedule 1, paragraphs 1 and 223; and S.I. 2005/3229.

(**b**) Regulation 93 was substituted by S.I. 1999/1374.

(**c**) Regulation 94B was inserted by S.I. 2003/2318 and amended by S.I. 2008/954 and S.I. 2008/1146.

(**d**) 2006 c. 46.

(**e**) Section 35 was amended by section 30 of the Finance Act 1996 (c. 8) and S.I. 2001/2305.

9. In Schedule 1, for the form numbered 11 (VAT refunds for DIY builders) substitute the forms numbered 11A (VAT refunds for DIY housebuilders – Claim form for new houses) and 11B (VAT refunds for DIY housebuilders – Claim form for conversions) contained in the Schedule to these Regulations.

Bernadette Kenny
Steve Lamey

21st July 2009 Two of the Commissioners for Her Majesty's Revenue and Customs

SCHEDULE

Regulation 9

Form No. 11A: VAT refunds for DIY housebuilders - Claim form for new houses

HM Revenue & Customs

VAT refunds for DIY housebuilders
Claim form for new houses

Official use only
Claim reference number

To claim back the VAT you have paid on building materials used to construct your new house, answer the questions on this claim form. The information you give at part B will show us whether you are eligible to claim back the VAT. Refer to the notes that came with this claim form. If you are not sure how to answer a question, phone the Helpline on **0845 010 9000**.

A Personal details

Answer all the questions in this part. If you leave any answer blank we may reject your claim

1 Your full name, including your title *Mr, Mrs, Miss, etc.*
If a charity, name of charity for whom the building has been constructed

2 If more than one claimant, title and full name of other claimant(s)

3 Your daytime contact phone numbers

4 Your address

Postcode

Is this the building you are claiming for?

No ☐ Yes ☐

5 Your National Insurance number

6 Certified date of completion for the building
If you do not have a completion certificate leave blank

DD MM YYYY

7 Date you occupied the building

DD MM YYYY

8 If you or anyone connected with this claim have an interest or association with a VAT registered business, enter the VAT registration number(s) below:

B Are you eligible to claim?

Refer to the guidance notes

9 Is the property that you have built a new build?
By new build we mean a building that has been constructed from scratch which does not incorporate any part of an existing building

No ☐ Yes ☐

10 Is your claim for the fit out and finish of a building shell?

No ☐ Yes ☐

If you have answered No to questions 9 and 10 you will not be eligible to claim

11 Has the work been done on a completed dwelling purchased from a developer, builder or private vendor?

No ☐ Yes ☐

If Yes, you are not eligible to claim

12 Has Planning Permission been granted for your new build?
To obtain a VAT refund you must provide evidence that the works are lawful and send to us a copy of the Planning Permission

No ☐ Yes ☐

13 Do the terms of your Planning Permission (or similar permission) prevent the separate disposal, or separate use, of the new building from any other pre-existing building?

No ☐ Yes ☐

14 Has a Building Regulation Completion Certificate been granted by the local authority or by an approved inspector registered with the local authority building control?

No ☐ Yes ☐

If No, give details about what you will be providing instead

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Claimant: enter your full name here

15 Have you got your approved plans from your Local Authority?

No ☐ Yes ☐

16 Are you intending to live in the property you are claiming for?

No ☐ Yes ☐

If No, provide the address of the new build and explain why you have carried out the work

17 Are you claiming for any other building(s)?

No ☐ Yes ☐

If Yes, give details about the other building(s) and explain why

Continue to complete the rest of this claim form only if you have answered questions 9 to 17, have checked the notes and are sure that you qualify for a VAT refund using this scheme.

C Details of the property that has been constructed

18 Type of building

For example, a house, bungalow, apartment/flat, etc.

Is the building detached, semi-detached, terraced?

Number of storeys ☐☐

Number of reception rooms ☐☐

Number of bedrooms ☐☐

Number of bathrooms/en-suites ☐☐

Number of kitchen/utility rooms ☐☐

If there are other rooms not described above, tell us how many there are and describe their purpose below

19 How many garages do you have (or intend to have)?

Number of integral ☐

Number of detached ☐

20 Will you be occupying it/them with the property you are constructing?

No ☐ Yes ☐

If No, explain what you will be doing with them

Claimant: enter your full name here

D **Details of the goods supplied to you for which you will be claiming back VAT where the VAT amounts are shown separately on the invoice**

Remember, you can only claim for building materials **and** you must send in the original invoices.
The invoices should be in your name. If they are not in your name, you must explain why.
For further advice about how to complete this part, refer to the notes.

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	VAT paid

D **Total**

Claimant: enter your full name here

D Details of the goods supplied to you for which you will be claiming back VAT where the VAT amounts are shown separately on the invoice *Continued*

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	VAT paid
			Balance brought forward	

D Total

Claimant: enter your full name here

E Details of the goods supplied to you for which you will be claiming back VAT at the standard rate where VAT amounts are not shown separately on the invoice

Remember, you can only claim for building materials **and** you must send in the original invoices.
The invoices should be in your name. If they are not in your name, you must explain why.
For further advice about how to complete this part, refer to the notes.

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid

Total paid

E **Total VAT calculated** *see notes*

Claimant: enter your full name here

E Details of the goods supplied to you for which you will be claiming back VAT at the standard rate where VAT amounts are not shown separately on the invoice ***Continued***

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid
			Balance brought forward	

Total paid

E **Total VAT calculated** *see notes*

Claimant: enter your full name here

F Sending in your claim

Summary, checklist and declaration

21 Summary

To check what is needed here, refer to the notes

Total amount of VAT claimed from part D

£ .

Total amount of VAT claimed from part E

£ .

Total amount of VAT to claim back from parts D + E

£ .

22 Bank account details

Give us details of the account into which you would prefer us to send your VAT refund

Full name(s) of account holder(s)

Sort code

– –

Account number

Must be at least 8 digits. Lead with zeros if less

23 Checklist

Make sure you send all documents as requested to help us deal with your claim quickly. If you do not provide us with the correct documents we may reject your claim.

Have you enclosed the following documents?

Full Planning Permission No Yes

Or

Outline Planning Permission **and** Approval of Reserved Matters No Yes

*Note: **both** documents are needed*

And

Completion Certificate or other acceptable evidence No Yes

A full set of building plans No Yes

Original invoices *filed in the same order as listed on the schedules* No Yes

If any of the invoices have not been made out in your name, explain why in the box provided below

24 Do you give your authority for us to discuss your claim with your agent or accountant?

No Yes

If Yes, give details of your agent or accountant here

25 Declaration

If you give incomplete or inaccurate information in this claim, we may charge you a financial penalty or prosecute you.

I declare that:

- I am only reclaiming VAT which was correctly charged to me and which I paid on goods I bought or imported from a VAT registered supplier
- all the details and information on this form and any accompanying documents are correct
- I have read the attached guidance notes.

VAT registered persons

I confirm no other claim has been or will be made for these supplies and where the purchase of goods has been invoiced to my VAT registered business. I have not and will not claim this VAT through my VAT return.

Charity builders

The building being claimed for is to be used solely for the purpose of the charity named in question 1 of this claim form.

Signature(s)

Date *DD MM YYYY*

Form No. 11B: VAT refunds for DIY housebuilders - Claim form for conversions

HM Revenue & Customs

VAT refunds for DIY housebuilders
Claim form for conversions

Official use only
Claim reference number

To claim back the VAT you have paid on building materials and services used for your conversion, answer the questions on this claim form. The information you give at part B will show us whether you are eligible to claim back the VAT. Refer to the notes that came with this claim form. If you are not sure how to answer a question, phone the Helpline on **0845 010 9000**.

A Personal details

Answer all the questions in this part. If you leave any answer blank we may reject your claim

1 Your full name, including your title *Mr, Mrs, Miss, etc.*

2 If more than one claimant, title and full name of other claimant(s)

3 Your daytime contact phone numbers

4 Your address

Postcode

Is this the building you are claiming for?

No ☐ Yes ☐

5 Your National Insurance number

6 Certified date of completion for the building
If you do not have a completion certificate leave blank

DD MM YYYY

7 Date you occupied the building

DD MM YYYY

8 If you or anyone connected with this claim have an interest or association with a VAT registered business, enter the VAT registration number(s) below:

B Are you eligible to claim?

Refer to the guidance notes

9 Have you converted a non-residential building?
By conversion we mean converting a non-residential building into a dwelling

No ☐ Yes ☐

10 Have you carried out works to a building that has previously been lived in?

No ☐ Yes ☐

11 Have you got evidence that the building has been empty for 10 years or more before works started?

No ☐ Yes ☐

If No, you are not eligible to claim

12 Are you 'fitting out or finishing' a converted non-residential building?

No ☐ Yes ☐

13 Has work been done on a completed dwelling purchased from a developer, builder or private vendor?

No ☐ Yes ☐

If Yes, you are not eligible to claim

14 Has Planning Permission been granted for your conversion/renovation/alteration works?
To obtain a VAT refund you must provide evidence that the works are lawful and send to us a copy of the Planning Permission

No ☐ Yes ☐

If No, explain the reason why below

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Claimant: enter your full name here

15 Do the terms of your Planning Permission (or similar permission) prevent the separate disposal, or separate use, of the converted property from any other pre-existing building?

No ☐ Yes ☐

16 Has a Building Regulation Completion Certificate been granted by the local authority or an approved inspector registered with the local authority building control?

No ☐ Yes ☐

If No, refer to notes and give details about what you will be providing instead

17 Have you got your approved plans from your Local Authority?

No ☐ Yes ☐

18 Are you intending to live in the property you are claiming for?

No ☐ Yes ☐

If No, provide the address of the conversion and explain why you have carried out the works

19 Are you claiming for any other building(s)?

No ☐ Yes ☐

If Yes, give details about the other building(s) and explain why

Continue to complete the rest of this claim form only if you have answered questions 9 to 19, have checked the notes and are sure that you qualify for a VAT refund using this scheme.

C Details of the property that has been converted

20 What was the building before you started your works?

Type of building
For example, barn conversion, house, apartment/flat, etc.

Is the building detached, semi-detached, terraced?

Number of storeys ☐☐

Number of reception rooms ☐☐

Number of bedrooms ☐☐

Number of bathrooms/en-suites ☐☐

Number of kitchen/utility rooms ☐☐

If there are other rooms not described above, tell us how many there are and describe their purpose below

21 How many garages do you have (or intend to have)?

Number of integral ☐

Number of detached ☐

22 Will you be occupying it/them with the property you are converting?

No ☐ Yes ☐

If No, explain what you will be doing with them

Claimant: enter your full name here

D Details of the goods and services for which you will be claiming back VAT where the VAT amounts are shown separately on the invoice

Remember, you must send in the original invoices. The invoices should be in your name.
If they are not in your name, you must explain why.
For further advice about how to complete this part, refer to the notes.

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	VAT paid

D **Total**

Claimant: enter your full name here

D Details of the goods and services supplied to you for which you will be claiming back VAT where the VAT amounts are shown separately on the invoice *Continued*

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	VAT paid
			Balance brought forward	

D Total

Claimant: enter your full name here

E Details of the goods and services for which you will be claiming back VAT at the standard rate where VAT amounts are not shown separately on the invoice

Remember, you must send in the original invoices. The invoices should be in your name.
If they are not in your name, you must explain why.
For further advice about how to complete this part, refer to the notes.

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid	

Total paid

E **Total VAT calculated** *see notes*

Claimant: enter your full name here

E Details of the goods and services supplied to you for which you will be claiming back VAT at the standard rate where VAT amounts are not shown separately on the invoice *Continued*

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid
			Balance brought forward	

Total paid

E **Total VAT calculated** *see notes*

Claimant: enter your full name here

F Details of the goods and services for which you will be claiming back VAT at the reduced rate where VAT amounts are not shown separately on the invoice

Remember, you must send in the original invoices. The invoices should be in your name.
If they are not in your name, you must explain why.
For further advice about how to complete this part, refer to the notes.

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid

Total paid

F **Total VAT calculated** *see notes*

Claimant: enter your full name here

F Details of the goods and services for which you will be claiming back VAT at the reduced rate where VAT amounts are not shown separately on the invoice *Continued*

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid
			Balance brought forward	

Total paid

F **Total VAT calculated** *see notes*

Claimant: enter your full name here

G Sending in your claim

Summary, checklist and declaration

23 Summary

To check what is needed here, refer to the notes

Total amount of VAT claimed from part D

£ .

Total amount of VAT claimed from part E

£ .

Total amount of VAT claimed from part F

£ .

Total amount of VAT to claim back from parts D + E + F

£ .

24 Bank account details

Give us details of the account into which you would prefer us to send your VAT refund

Full name(s) of account holder(s)

Sort code

– –

Account number

Must be at least 8 digits. Lead with zeros if less

25 Checklist

Make sure you send all documents as requested to help us deal with your claim quickly. If you do not provide us with the correct documents we may reject your claim.

Have you enclosed the following documents?

Evidence that the building has been empty for 10 years or more before you started your works	No	Yes
Full Planning Permission	No	Yes
Or		
Outline Planning Permission **and** Approval of Reserved Matters	No	Yes
*Note: **both** documents are needed*		
And		
Completion Certificate or other acceptable evidence	No	Yes
A full set of building plans	No	Yes
Original invoices *filed in the same order as listed on the schedules*	No	Yes

If any of the invoices have not been made out in your name, explain why in the box below

26 Do you give your authority for us to discuss your claim with your agent or accountant?

No Yes

If Yes, give details of your agent or accountant here

27 Declaration

If you give incomplete or inaccurate information in this claim, we may charge you a financial penalty or prosecute you.

I declare that:

- I am only reclaiming VAT which was correctly charged to me and which I paid on goods/services I bought or imported from a VAT registered supplier
- all the details and information on this form and any accompanying documents are correct
- I have read the attached guidance notes.

VAT registered persons

I confirm no other claim has been or will be made for these supplies and where the purchase of goods has been invoiced to my VAT registered business, I have not and will not claim this VAT through my VAT return.

Signature(s)

Date *DD MM YYYY*

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Value Added Tax Regulations 1995 (1995/2518) ("the Regulations").

Regulations 3 to 5 amend regulations 84(5)(e) and 93(15) and insert regulations 84(5)(f) and (g) and 93(16) so that, when applying section 839 of the Income and Corporation Taxes Act 1988 (c. 1) ("the Taxes Act"), a company is not connected with another company for the purposes of regulations 84 and 93 only because both are under the control of the Crown, a Minister of the Crown, a government department or a Northern Ireland department.

Regulation 6 substitutes regulation 94B(4) so that, for the purposes of regulation 94B(2), any question whether one person is connected with another will be determined in accordance with section 839 of the Taxes Act but subject to the qualification that a company is not connected with another company for the purposes of that regulation only because both are under the control of the Crown, a Minister of the Crown, a government department or a Northern Ireland department. Regulation 94B(4)(d) defines "undertaking" and "group undertaking".

Regulations 7 and 8 amend regulation 201(a) and insert regulation 201A so that a claim for refund of VAT under section 35 of the Value Added Tax Act 1994 (c. 23) (refund of VAT to persons constructing certain buildings) must be made on Form 11A or Form 11B in Schedule 1 to the Regulations. Form 11A must be used for refunds in respect of works relating to the construction of building designed as a dwelling or number of dwellings or for use solely for certain residential or charitable purposes. Form 11B must be used for refunds in respect of works relating to the conversion of a non-residential building or a non-residential part of a building into a building designed as a dwelling or number of dwellings or for use solely for certain residential purposes.

Regulation 9 and the Schedule to these Regulations amend Schedule 1 by substituting Forms 11A and 11B for Form 11.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.

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