STATUTORY INSTRUMENTS

2007 No. 313

VALUE ADDED TAX

The Value Added Tax (Amendment) Regulations 2007

Made - - - -	*7th February 2007*
Laid before the House of Commons	*8th February 2007*
Coming into force - -	*1st March 2007*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 36(5)(f), (6)(b) and (7)(a) of the Value Added Tax Act 1994(**a**):

1. These Regulations may be cited as the Value Added Tax (Amendment) Regulations 2007 and come into force on 1st March 2007.

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

3. For regulation 170A substitute—

"**170A.**—(1) This regulation applies where—

(a) the claimant made a supply of goods and, in connection with that supply, a supply of credit;

(b) those supplies were made under a hire purchase, conditional sale or credit sale agreement; and

(c) a payment is received in relation to those supplies (other than a payment of an amount upon which interest is not charged).

(2) Where the supply of goods was made before 1st September 2006 the payment shall be attributed in accordance with the rule set out in paragraph (5).

(3) Where the supply of goods was made on or after 1st September 2006 and before 1st September 2007 the payment may be attributed in accordance with the rule set out in paragraph (5) or (6).

(4) Where the supply of goods was made on or after 1st September 2007 the payment shall be attributed in accordance with the rule set out in paragraph (6).

(5) Where this paragraph applies, the payment shall be attributed —

(**a**) 1994 c.23; section 96(1) of the Act defines "the Commissioners" to mean "the Commissioners of Customs and Excise" and "regulations" as meaning regulations made by the Commissioners under the Act. Section 36(6)(b) and (7) were amended by section 23 of the Finance Act 1998 (c. 36). The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for 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 for Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**b**) S.I. 1995/2518; relevant amending instruments are S.I. 1996/2690, 1997/1086, 1999/3029.

(a) as to the amount obtained by multiplying it by the fraction A/B , to the supply of credit; and

(b) as to the balance, to the supply of goods,

where—

A is the total of the interest on the credit provided under the agreement under which the supplies are made (determined as at the date of the making of the agreement); and

B is the total amount payable under the agreement, less any amount upon which interest is not charged.

(6) Where this paragraph applies, the payment shall be attributed —

(a) in respect of payments made on or before termination of the agreement,

(i) as to the amount obtained by multiplying it by the fraction A/B, to the supply of credit; and

(ii) as to the balance, to the supply of goods,

where—

A is the total of the interest on the credit provided under the agreement, less any rebate of interest granted, less any interest attributable to any unpaid instalments prior to the termination; and

B is the total amount payable under the agreement being the total of *A* plus the total for the goods.

"Total for the goods" means the amount due for the goods under the agreement, less any reduction as a consequence of termination, less any amount upon which interest is not charged, less any part of the total due for the goods which is unpaid at the time of termination.

(b) in respect of payments made after termination of the agreement, between the supply of goods and the supply of credit according to the proportion of the balances due at the time the payment is made.

(7) Where an agreement provides for a variation of the rate of interest after the date of the making of the agreement then, for the purposes of the calculation in paragraph (5), it shall be assumed that the rate is not varied.".

4. For regulation 171(1) substitute—

"171—(1) Where a claimant—

(a) has received a refund upon a claim, and

(b) either—

(i) a payment for the relevant supply is subsequently received, or

(ii) a payment is, by virtue of regulation 170 or 170A, treated as attributed to the relevant supply, or

(iii) the consideration for any relevant supply upon which the claim to refund is based is reduced after the claim is made,

he shall repay to the Commissioners such an amount as equals the amount of the refund, or the balance thereof, multiplied by a fraction of which the numerator is the amount so received or attributed, and the denominator is the amount of the outstanding consideration, or such an amount as is equal to the negative entry made in the VAT allowable portion of his VAT account as provided for in regulation 38.".

5. In regulation 172J for "170A" substitute "170A(5)".

Paul Gray
Mike Eland

7th February 2007 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st March 2007, amend regulations 170A (rules of attribution of payments received under certain credit agreements), 171(1) (repayment of a refund) and 172J (repayment of input tax where consideration not paid - attribution of payments) of the Value Added Tax Regulations 1995 (S. I. 1995/2518).

Regulation 3 amends regulation 170A and introduces a new formula for the attribution of a payment between a supply of goods and a supply of credit where the goods are supplied on or after 1st September 2006 and a claim for bad debt relief is made. The regulation also contains transitional measures for supplies made on or after 1st September 2006 and before 1st September 2007.

Regulation 4 amends regulation 171(1) to require the repayment to the Commissioners of a refund of tax where there is a reduction in the consideration for the supply in accordance with regulation 38 of the Value Added Tax Regulations 1995 following the accordance of bad debt relief.

Regulation 5 makes a consequential amendment to regulation 172J.

A full Regulatory Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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