STATUTORY INSTRUMENTS

1973 No. 244

VALUE ADDED TAX

The Value Added Tax (General) (Amendment) Regulations 1973

Made - - -	*16th February* 1973
Laid before the House of Commons	*23rd February* 1973
Coming into Operation	*1st April* 1973

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 3(3), 3(4), 7(8), 12(7), 16(2) and 17(1) of the Finance Act 1972(**a**) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

1. These Regulations may be cited as the Value Added Tax (General) (Amendment) Regulations 1973 and shall come into operation on 1st April 1973.

2.—(1) In these Regulations "the Principal Regulations" means the Value Added Tax (General) Regulations 1972(**b**).

(2) The Interpretation Act 1889(**c**) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

3. Regulation 14 of the Principal Regulations shall be amended by adding after paragraph (2) thereof—

"(3) Where, pursuant to the provisions of section 5(6) of the Act, the granting of a tenancy or, in Scotland, the lessee's interest under a lease, is treated as a supply of goods and payments with respect thereto are to be made periodically, that supply shall be treated as taking place when each payment is received or a tax invoice relating thereto is issued by the supplier, whichever is the earlier, to the extent covered by the payment or invoice.".

4. Regulation 20 of the Principal Regulations shall be deleted and there shall be substituted therefor the following—

"20. Services supplied by a barrister or, in Scotland, by an advocate, acting in that capacity shall be treated as taking place when the fee in respect of those services is received or a tax invoice is issued, whichever is the earlier.".

5. Regulation 24 of the Principal Regulations shall be amended as follows—in paragraph (1) Method 2 after the word "for" in line 3 thereof there shall be inserted the word "taxable".

(**a**) 1972 c. 41.
(**b**) S.I. 1972/1147 (1972 II, p. 3362).
(**c**) 1889 c. 63.

6. Regulation 25 of the Principal Regulations shall be amended by adding after paragraph (*d*) thereof—

"(*e*) any sum receivable by him as consideration for the assignment of a debt."

and accordingly at the end of paragraph (*c*) thereof the word "and" shall be deleted and at the end of paragraph (*d*) thereof the full stop shall be deleted and there shall be substituted therefor "; and".

7. Regulation 27 of the Principal Regulations shall be amended as follows—

(*a*) in paragraphs (1) and (2) the words "Regulation 25(*a*) or (*d*)" shall be deleted and the words "Regulation 25(*a*), (*d*) or (*e*)" substituted therefor;

(*b*) after paragraph (2) there shall be added—

"(3) Subject to paragraph (4) of this Regulation, where, in any prescribed accounting period or in any period of less than 2 years ending on 31st March in any year or on such other date as the Commissioners may approve, the amount of a taxable person's input tax attributable to exempt supplies is less than 5 per cent of the whole of his input tax, all his supplies in that period shall, if the Commissioners see fit, be treated as taxable supplies; and for the purpose of any calculation made under this paragraph all exempt supplies such as are mentioned in Regulation 25(*a*), (*d*) or (*e*) shall be disregarded.

(4) Save as the Commissioners may otherwise allow, paragraph (3) of this Regulation shall not apply unless the Commissioners have allowed or directed the taxable person to use a method other than one specified in Regulation 24(1).".

8. Regulation 30 of the Principal Regulations (Interpretation) shall be amended as follows—

(*a*) in paragraphs (3) and (4) the words "Regulations 42 and 43" shall be deleted and the words "Regulations 42, 42A, 43 and 43A" substituted therefor;

(*b*) after paragraph (6) there shall be added—

"(7) In Regulation 39A the expression "work of art" applies to any of the following goods—

(*a*) paintings, drawings and pastels, executed by hand;

(*b*) original engravings, prints and lithographs;

(*c*) original sculptures and statuary, in any material.

(8) In Regulation 39A "motor car" means any motor vehicle of a kind normally used on public roads which has three or more wheels and either—

(*a*) is constructed or adapted solely or mainly for the carriage of passengers; or

(*b*) has to the rear of the driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows.

(9) The following are not included in the definition of "motor car"—

(*a*) vehicles capable of accommodating only one person or suitable for carrying twelve or more persons;

(*b*) vehicles of not less than three tons unladen weight;

(*c*) caravans, ambulances and prison vans;

(*d*) vehicles of a type approved by the Assistant Commissioner of Police of the Metropolis as conforming to the conditions of fitness for the time being laid down by him for the purposes of the London Cab Order 1934(**a**);

(*e*) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.

(10) In this Part of these Regulations "Community traveller" means a person whose domicile, habitual residence or usual place of business is in a member state of the European Economic Community other than the United Kingdom.

(11) In this Part of these Regulations "Domicile or habitual residence" means the place so named in a person's passport, or identity card, or lacking these, any other identity document recognised as valid in the United Kingdom.

(12) For the purposes of Regulations 42A and 43A "goods" means any article or a group of articles normally supplied as a set.".

9. Regulation 31 of the Principal Regulations shall be amended by adding after paragraph (*a*) thereof—

"(*b*) section 112 (repayment of duty on spirits for medical or scientific purposes);"

and paragraphs (*b*), (*c*) and (*d*) shall be re-lettered (*c*), (*d*) and (*e*).

10. The Principal Regulations shall be amended by adding after Regulation 39—

"39A.—(1) Subject to paragraph (2) of this Regulation and to such conditions as the Commissioners may impose, the tax chargeable on the importation of motor cars and works of art which have been previously exported from the United Kingdom shall not be payable if the Commissioners are satisfied that—

(*a*) in the case of a motor car, it was supplied in the United Kingdom before its export and any purchase tax or tax due on that supply was paid and neither has been, nor will be refunded or deducted;

(*b*) in the case of a work of art,

(i) it was exported before 1st April 1973, or

(**a**) S.R. & O. 1934/1346 (Rev. XIV, p. 795; 1934 I, p. 1221).

(ii) it was exported after 31st March 1973 by a person, who, had he supplied it in the United Kingdom at the date when it was exported, would not have had to account for tax on the full value of such supply.

(2) Where such motor car or work of art has undergone any process or repair abroad it shall be chargeable with tax on re-importation as if the amount of any increase in its value, since its exportation, attributable to the process or repair were its whole value.".

11. The Principal Regulations shall be amended by adding after Regulation 41—

"Supplies to overseas persons

41A.—(1) Subject to paragraph (3) of this Regulation, where the Commissioners are satisfied that goods have been supplied to a person not resident in the United Kingdom, a trader who has no place of business in the United Kingdom, or an overseas authority, and that the goods are to be exported, the supply, subject to such conditions as they may impose, shall be zero-rated.

(2) For the purposes of this Regulation, "overseas authority" means any country other than the United Kingdom or any part of or place in such a country or the government of any such country part or place.

(3) This Regulation shall not apply where the goods are supplied to a registered person.".

12. Regulation 42 of the Principal Regulations shall be deleted and there shall be substituted therefor the following—

"42. Where the Commissioners are satisfied that—

(*a*) goods have been supplied direct to a ship or aircraft on behalf of

(i) an overseas visitor other than a Community traveller, or

(ii) a person who is a Community traveller or a resident of the United Kingdom and who at the time of supply intended to depart from and remain outside the European Economic Community area for a period of at least 12 months; and

(*b*) the goods were produced to the proper officer on exportation; and

(*c*) unless they have otherwise allowed, the goods were exported in that ship or aircraft,

the supply, subject to such conditions as they may impose, shall be zero-rated.".

13. The Principal Regulations shall be amended by adding after Regulation 42—

"42A. Where the Commissioners are satisfied that—

(*a*) goods, the value of which together with tax exceeds £50, have been supplied direct to a ship or aircraft on behalf of

(i) a Community traveller who at the time of supply intended that the final destination of the goods should be a member state of the European Economic Community, or

(ii) a resident of the United Kingdom who at the time of supply intended to depart from the United Kingdom for a period of at least 12 months and that the final destination of the goods should be a member state of the European Economic Community; and

(*b*) the goods were exported,

the supply, subject to such conditions as they may impose, shall be zero-rated.".

14. Regulation 43 of the Principal Regulations shall be amended as follows—

in paragraph (1), sub-paragraph (*a*) shall be deleted and there shall be substituted therefor the following—

"(*a*) goods have been supplied to a person who

(i) is an overseas visitor other than a Community traveller, or is a Community traveller who at the time of supply intended to depart from and remain outside the European Economic Community area for a period of at least 12 months, and

(ii) at the time of the supply intended to depart from the United Kingdom within 3 months from that date and that the goods should accompany him;".

15. The Principal Regulations shall be amended by adding after Regulation 43—

"43A.—(1) Where the Commissioners are satisfied that—

(*a*) goods, the value of which together with tax exceeds £50, have been supplied to a Community traveller who, at the time of the supply, intended to depart from the United Kingdom within 3 months from that date, that the goods should accompany him and that the final destination of the goods should be a member state of the European Economic Community;

(*b*) the goods were capable of being carried on the person or in the hand baggage of the exporter, or if he intended to depart from the United Kingdom with a motor vehicle, in that vehicle; and

(*c*) the goods have been exported,

the supply, subject to such conditions as they may impose, shall be zero-rated.

(2) This Regulation shall not apply to any person who is a member of the crew of any ship or aircraft departing from the United Kingdom.".

R. W. Radford,
Commissioner of Customs and Excise.

16th February 1973.

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EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations amend various provisions of the Value Added Tax (General) Regulations 1972 and add four new Regulations.

Regulations 1 and 2 are formal.

Regulation 3 provides, for the removal of doubt, that where a lease of land is treated as a supply of goods for value added tax purposes the supply is to be treated as taking place when each payment is received or tax invoice issued, to the extent covered by the payment or invoice.

Regulation 4 extends to all services supplied by barristers or advocates, acting as such, the time of supply prescribed in the Principal Regulations for certain such services.

Regulation 5 provides that a partly exempt person using Method 2 in Regulation 24 of the Principal Regulations may not deduct tax on goods which he acquires for onward supply in the same state if that onward supply is an exempt supply. It removes an anomaly which would otherwise arise in respect of supplies of goods in connection with certain exempt services.

Regulation 6 provides that sums received as consideration for the assignment of debts are to be excluded from partial exemption calculations.

Regulation 7 makes amendments consequential on Regulation 6, and also introduces a new formula, alternative to the existing formula, for waiving partial exemption treatment on *de minimis* grounds.

Regulation 8 contains definitions for the purposes of succeeding Regulations.

Regulation 9 provides that tax shall not be repaid on imported spirits used for medical or scientific purposes. It removes an anomaly whereby tax on the use of imported spirits would be less than on the use of British spirits.

Regulation 10 provides for the tax charge to be waived or modified in the case of certain reimported motor cars and works of art. It is complementary to the provisions of the Value Added Tax (Cars) Order 1972 (S.I. 1972/1970) and the Value Added Tax (Works of Art, Antiques and Scientific Collections) Order 1972 (S.I. 1972/1971).

Regulation 11 provides for the zero-rating of supplies to persons who are not registered for value added tax purposes and have no place of business in the United Kingdom but who intend to export the goods.

Regulations 12—15 restrict the remission of tax on supplies to travellers from the European Economic Community who are departing from the United Kingdom and to United Kingdom residents leaving this country for at least 12 months and intending to remain in another Community country. They bring the provisions on this subject into line with those prescribed for travellers' allowances within the European Economic Community.

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