STATUTORY INSTRUMENTS

1984 No. 155

VALUE ADDED TAX

The Value Added Tax (General) (Amendment) Regulations 1984

Made - - - -	14*th February* 1984
Laid before the House of Commons -	22*nd February* 1984
Coming into Operation in accordance with regulation 1 *below*	

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by section 15 of the Value Added Tax Act 1983(**a**) and 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 1984 and shall come into operation on 1st April 1984, except that where the next tax year of a taxable person commences on a day after 1st April 1984 the substitution (by regulation 5) of new provisions for the provisions of regulations 24 and 27 of the principal Regulations shall not have effect in relation to him until the first day of that tax year.

2. In these Regulations—

"the principal Regulations" means the Value Added Tax (General) Regulations 1980(**b**);

"tax year" has the meaning given by regulation 23(1)*(b)* of the principal Regulations.

3. The principal Regulations shall be amended in accordance with the following provisions of these Regulations.

4. In regulation 2—

(a) the definition of "the Act" shall be omitted;

(b) there shall be added at the end a new paragraph as follows—

(a) 1983 c.55.
(b) S.I. 1980/1536; relevant amending instruments are S.I. 1983/295 (as amended by S.I. 1983/475), 1982/1471.

"(3) In these Regulations any reference to "the Act" is a reference to the Finance Act 1972(**a**) but shall be construed as including a reference to the Value Added Tax Act 1983(**b**), and any reference to a provision of the Act shall be construed as including a reference to the corresponding provision of the Value Added Tax Act 1983; "the 1983 Act" (in Part V of these Regulations) means the Value Added Tax Act 1983; any reference to a Schedule to "the Act" or to "the 1983 Act" includes a reference to a Schedule as amended from time to time by Order of the Treasury.".

5. For PART V there shall be substituted the following—

"PART V

PARTIAL EXEMPTION AND INPUT TAX

Interpretation and longer periods

23.—(1) In this Part of these Regulations—

(a) "method" means any method which is referred to in regulation 24 and "special method" means a method the use of which may be allowed or directed by the Commissioners pursuant to paragraph (2) of that regulation;

(b) the "tax year" of a taxable person means a period of twelve calendar months commencing on the first day of his first prescribed accounting period beginning on or after the 1st April in any year, or on such other date as the Commissioners may approve or direct;

(c) "treated as members of a group" means so treated under the provisions of section 29 of the 1983 Act; and

(d) premises subject to a lease are tied premises if they are tied premises within the meaning of section 140(2) of the Income and Corporation Taxes Act 1970(**c**) in relation to the lessor and to a trade carried on by him.

(2) The provisions of paragraphs (3) to (5) of this regulation shall be used for determining the longer period applicable to taxable persons under this Part.

(3) A taxable person who makes an exempt supply during a tax year shall have applied to him a longer period which shall correspond with his tax year unless he did not make an exempt supply during his immediately preceding tax year, in which case his longer period shall—

(a) begin on the first day of the first prescribed accounting period in which he makes an exempt supply; and

(b) end upon the last day of his tax year,

except where his only exempt supplies are in the last prescribed accounting period of his tax year, in which case no longer period shall be applied to him in respect of that tax year.

(a) 1972 c.41.
(b) 1983 c.55.
(c) 1970 c.10.

(4) In the case of a taxable person ceasing to be taxable during a longer period applicable to him, that longer period shall end on the day when he ceases to be taxable.

(5) The Commissioners may approve different provisions for different circumstances and particularly may approve, in the case of a taxable person who makes an exempt supply, or of a class of such persons, that a longer period shall apply which need not correspond with a tax year.

Attribution of input tax by a person making exempt supplies

24.—(1) Subject to paragraph (2) of this regulation, the amount of input tax to be provisionally attributed to taxable supplies by any taxable person who makes exempt supplies shall be determined in any prescribed accounting period by the following method, that is to say:–

Subject to regulation 25 he may deduct such part of his input tax as bears the same ratio to his total input tax as the value of taxable supplies by him bears to the value of all supplies by him.

(2) The Commissioners may allow or direct the use of a method other than that specified in paragraph (1) of this regulation.

25. There shall be excluded from any calculation made by any taxable person for the purpose of using a method—

(a) all capital sums receivable by him in respect of an exempt supply of the grant, assignment or surrender of an interest in land which he has habitually occupied in the course of carrying on a business;

(b) input tax on supplies to him or paid by him on imported goods which is excluded from credit in any order made by the Treasury under section 3(9) of the Act;

(c) that part of the value of any supply of goods on which output tax is not chargeable by virtue of any order made by the Treasury under section 3(9) of the Act unless he acquired or imported the goods for the purpose of selling them;

(d) subject to regulation 25A(1) of these Regulations, any sum receivable by him as consideration for an exempt supply comprised in item 6 of Group 5 of Schedule 6 to the 1983 Act and any sum receivable by him as consideration for a zero-rated supply which is of services of a description specified in that item and is comprised in item 6 of Group 9 of Schedule 5 to that Act where, in either case, the supply is incidental to one or more of his business activities;

(e) any sum receivable by him as consideration for an exempt supply of the assignment of a debt;

(f) subject to regulation 25A(2) of these Regulations, any sum receivable by him as consideration for an exempt supply comprised in item 2, 3 or 4 of Group 5 of Schedule 6 to the 1983 Act and any sum receivable by him as consideration for a zero-rated supply which is of services of a description specified in those items and is comprised in item 6 of Group 9 of Schedule 5 to that Act where, in either case, the supply is incidental to one or more of his business activities;

(g) any sum receivable by him as consideration for the issue, transfer or receipt of or any dealing with any certificate of deposit or treasury bill

or, in the case of a body corporate, the issue, transfer or receipt of or any dealing with any stock or shares in itself or in another body corporate where the bodies are eligible to be treated as members of a group;

(h) in the case of a body corporate, any sum receivable by it as consideration for the making of an advance, or the granting of credit, to another body corporate where the bodies are eligible to be treated as members of a group;

(i) any sum receivable by him in respect of an exempt supply of the grant, assignment or surrender of any interest in or right over land or of any licence to occupy land where such grant, assignment or surrender is in respect of premises used and occupied as tied premises;

(j) any sum receivable by him as consideration for the grant of a licence to occupy land where the land comprises floor-space within a retail store belonging to the licensor and the purpose of the arrangement is to enable and permit the licensee to make supplies by retail within the store of his own goods or services whilst enjoying the general trading facilities of the licensor's retail business.

25A.—(1) Without prejudice to the generality of regulation 25*(d)* of these Regulations a supply shall not be treated as being incidental for the purpose of that sub-paragraph where it is made by a person who carries on the business of, or a business similar to, any of the following:–

(a) a bank or licensed deposit taker;

(b) an accepting house;

(c) an insurance company, agent or broker;

(d) an investment trust or unit trust;

(e) an investment company, unless acting on behalf of a company which does not carry on a business specified by this paragraph and where the companies are eligible to be treated as members of a group;

(f) a stockbroker, stock jobber or share dealing company;

(g) a trustee of a pension fund;

(h) a unit trust management company;

(i) a building society;

(j) a discount house;

(k) a finance house;

(l) a friendly society.

(2) Without prejudice to the generality of regulation 25*(f)* of these Regulations a supply shall not be treated as being incidental for the purpose of that sub-paragraph where it is made by a person who carries on the business of, or a business similar to, any of the following:–

(a) any of the businesses specified in sub-paragraphs *(a)* to *(l)* of paragraph (1) of this regulation;

(b) (i) a money lender or money broker;

(ii) a mortgage broker;
(iii) a pawnbroker.

Adjustment of attribution

26.—(1) Where, in one or more prescribed accounting periods occurring in a longer period, a taxable person has provisonally attributed an amount of input tax to taxable supplies in accordance with a method, and where all his supplies in that longer period cannot be treated as taxable supplies under paragraph (2) or (3) of regulation 27, and save as the Commissioners, in the case of a taxable person using a special method, may dispense with the following requirement to adjust, he shall:–

(a) determine for the longer period the amount of input tax which is attributable to taxable supplies according to the method used in the prescribed accounting periods; and

(b) ascertain (subject to paragraph (2) of this regulation) whether there has been, overall, an over-deduction or an under-deduction of input tax, having regard to the above mentioned determination and to the sum of the amounts of input tax, if any, which were deducted in the returns for the prescribed accounting periods; and

(c) include any such amount of over-deduction or under-deduction as an adjustment in a return for the first prescribed accounting period next following the longer period, except where the Commissioners allow another return to be used for this purpose.

(2) Where, in one or more prescribed accounting periods occurring in a longer period, a taxable person has attributed an amount of input tax to taxable supplies in accordance with a method, and where all his supplies in that longer period can be treated as taxable supplies under paragraph (2) or (3) of regulation 27, he shall:–

(a) calculate the difference between the total amount of his input tax for that longer period and the sum of the amounts of input tax deducted in the returns for the prescribed accounting periods; and

(b) include that difference as an adjustment in a return for the first prescribed accounting period next following the longer period, except where the Commissioners allow another return to be used for this purpose.

Treatment of all supplies as taxable

27.—(1) Where, in any prescribed accounting period or in any longer period, a taxable person's only exempt supplies are of a description within any of sub-paragraphs *(a), (d), (e), (f), (g), (h), (i)* and *(j)* of regulation 25 and in respect of which a sum mentioned therein is to be excluded by the taxable person under that regulation, all his supplies in that period shall be treated as taxable supplies.

(2) Where, in any prescribed accounting period or in any longer period, the value of a taxable person's exempt supplies amounts to less than any of the following:–

(a) £200 per month on average; or

(b) both £8,000 per month on average and 50 per cent of the value of all his supplies; or

(c) both £16,000 per month on average and 25 per cent of the value of all his supplies; or

(d) 1 per cent of the value of all his supplies,

all his supplies in that period shall be treated as taxable supplies; and, for the purpose of a longer period, "exempt supplies" includes any exempt supplies which may have been treated as taxable supplies in any prescribed accounting period.

(3) Where, in any prescribed accounting period or in any longer period, 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 and does not exceed £200 per month on average, all his supplies in that period shall, if the Commissioners see fit, be treated as taxable supplies, but, save as the Commissioners may otherwise allow, this paragraph shall apply only to taxable persons using a special method; and, for the purpose of a longer period, "exempt supplies" includes any exempt supplies which may have been treated as taxable supplies in any prescribed accounting period.

(4) For the purpose of any calculation made under paragraph (2) or (3) of this regulation there is to be disregarded as the case may require—

(a) any sum mentioned in sub-paragraphs *(a), (d), (e), (f), (g), (h), (i)* and *(j)* of regulation 25 which is to be excluded by the taxable person under that regulation, and any amount of input tax attributable to the supply referable to that sum; and

(b) that part of the value of a supply of goods comprised in sub-paragraph *(c)* of regulation 25.

Duration of use of a method

28. A taxable person using any method shall use it for at least two tax years save as the Commissioners may otherwise allow or direct.

Exceptional claims for tax relief

29.—(1) Subject to paragraphs (2) and (4) of this regulation, on a claim made in accordance with paragraph (3) of this regulation, the Commissioners may authorise a taxable person to treat as if it were input tax—

(a) tax on the supply of goods or services to the taxable person before the date with effect from which he was, or was required to be, registered, or paid by him on imported goods before that date, for the purpose of a business which either was carried on or was to be carried on by him at the time of such supply or payment; and

(b) in the case of a body corporate, tax on the supply or importation of goods acquired for it before its incorporation, or on the supply of services before that time for its benefit or in connection with its incorporation, provided that the person to whom the supply was made or who paid tax on the importation—

(i) became a member, officer or employee of the body and was reimbursed, or has received an undertaking to be reimbursed, by the body for the whole amount of the price paid for the goods or services,

(ii) was not at the time of the supply or importation a taxable person, and

(iii) acquired the goods or services for the purpose of a business to be carried on by the body and has not used them for any purpose other than such business.

(2) No tax may be treated as input tax under paragraph (1) of this regulation—

(a) in respect of goods or services which had been supplied, or, in respect of goods, save as the Commissioners may otherwise allow, consumed—

(i) by the taxable person, or

(ii) in the case of paragraph (1)*(b)* of this regulation, by the person who acquired the goods or services,

before the date with effect from which the taxable person was, or was required to be, registered; or

(b) in respect of services performed upon goods to which sub-paragraph *(a)* above applies; or

(c) in respect of services which had been supplied—

(i) to the taxable person, or

(ii) in the case of paragraph (1)*(b)* of this regulation, to the person who acquired the services,

more than six months before the date of the taxable person's registration; or

(d) otherwise than is prescribed in this Part of these Regulations.

(3) A claim under paragraph (1) of this regulation shall, save as the Commissioners may otherwise allow, be made on the first return the taxable person furnishes pursuant to regulation 51(1) and, as the Commissioners may require, be supported by invoices and other evidence.

(4) A taxable person making a claim under paragraph (1) of this regulation shall compile and preserve for such period as the Commissioners may require—

(a) in respect of goods, a stock account showing separately quantities purchased, quantities used in the making of other goods, date of purchase and date and manner of subsequent disposals of both such quantities; and

(b) in respect of services, a list showing their description, date of purchase and date of disposal, if any.

(5) If a person who has been, but is no longer, a taxable person makes a claim in such manner and supported by such evidence as the Commissioners may require, they may pay to him the amount of any tax on the supply of services to him after the date with effect from which he ceased to be or to be required to be registered and which was for the purpose of any business carried on by him when he was or was required to be registered.".

6. Nothing in these Regulations shall affect the operation of regulation 4 of the Value Added Tax (General) (Amendment) Regulations 1983**(a)**.

P. Jefferson Smith,
Commissioner of Customs and Excise

14th February 1984
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(a) S.I. 1983/295.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate, with certain amendments, Part V of the Value Added Tax (General) Regulations 1980 (the "principal Regulations"), the Value Added Tax (General) (Amendment) (No 2) Regulations 1982, the Value Added Tax (General) (Amendment) Regulations 1983 and the Value Added Tax (General) (Amendment) (No 2) Regulations 1983. (The provisions in these Regulations reflect the requirements of the Sixth Council Directive of the EEC (77/388/EEC (OJ No L 145, 17.5.77, p.1)).

Under regulation 1 these Regulations become effective on 1st April 1984 except in the case of regulations 24 and 27 which take effect on the first day of a taxable person's tax year beginning on or after 1st April 1984.

Regulations 2 to 4 deal with definitions, in particular to reflect the insertion into the principal Regulations of references to the Value Added Tax Act 1983.

Regulation 5 amends Part V of the principal Regulations. This Part deals with partial exemption and input tax, and the main amendments are:

the new regulation 23(1)*(c)* defines the meaning to be given to the words "treated as members of a group" in regulations 25 and 25A;

the new regulation 23(1)*(d)* defines the meaning to be given to the words "tied premises" in regulation 25;

regulation 24(1) has been amended so that the only partial exemption method which may be used by a taxable person without the prior approval of the Commissioners, is that by which he may deduct such part of his input tax as bears the same ratio to his total input tax as the value of his taxable supplies bears to the total value of all his supplies;

regulations 25*(d)* and *(f)* have been amended to require taxable persons to exclude from any partial exemption calculation sums received in respect of incidental supplies of securities and credit;

the new regulation 25*(g)* requires the exclusion from any partial exemption calculation of any sum received in respect of certificates of deposit, treasury bills or, in the case of a body corporate, the issue, transfer or receipt of or any dealing with any stock or shares in itself or in another body corporate where the bodies are eligible to be treated as members of a group;

the new regulation 25*(h)* requires the exclusion from any partial exemption calculation of any sum received in respect of a loan made by one body corporate to another where both bodies are eligible to be members of the same VAT group;

the new regulation 25*(i)* requires the exclusion from any partial exemption calculation of any sum received for the disposal or letting of certain tied premises;

the new regulation 25*(j)* requires the exclusion from any partial exemption calculation of any sum received in respect of the provision of space within a retail store for use as a "shop within a shop";

the new regulations 25A(1) and (2) specify certain supplies which shall not be treated as incidental under the provisions of regulations 25*(d)* and *(f)*;

regulation 26 contains renumbered paragraphs consequent upon the revocation of a paragraph by an earlier instrument; and the provisions of that paragraph relating to the revocation of an election are preserved by regulation 6 of these Regulations.

regulation 27(2)*(d)* has been amended so that all supplies by a taxable person may be treated as taxable if the value of his exempt supplies is less than 1% of the total value of his supplies;

regulation 27(3) has been amended so that all the supplies of a taxable person may be treated as taxable if the amount of his input tax attributable to his exempt supplies is less than 5% of the total value of his input tax and does not exceed £200 per month on average;

regulation 28*(b)* has been revoked as a consequence of the amendment to regulation 24(1); and

minor consequential amendments have been made to the text of regulations 23(1)*(a)*, 27(1) and (4).

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