

2009 No. 3241

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 5) Regulations 2009

Made - - - - *9th December 2009*

Laid before the House of Commons *9th December 2009*

Coming into force - - *1st January 2010*

The Commissioners for Her Majesty's Revenue and Customs(a), in exercise of the powers conferred by sections 8(4), 26B and 39(1) and (3) of, and paragraphs 2(3), 2(3ZA) and 2A of Schedule 11 to, the Value Added Tax 1994(b) and paragraph 22 of Schedule 3 to the Finance Act 2009(c), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. 5) Regulations 2009 and come into force on 1st January 2010.
2. The Value Added Tax Regulations 1995(d) are amended as follows.

Change of rate, supplementary charge invoices

3. After regulation 15, insert—

“Change of rate, supplementary charge invoices

15A. Where a supplementary charge is due under Schedule 3 to the Finance Act 2009 in respect of a supply and a VAT invoice has been issued in relation to that supply which invoice does not include the supplementary charge, the person making the supply shall, within 45 days after the date when the supplementary charge becomes due, provide the person to whom the supply is made with an invoice headed “Supplementary charge invoice” and containing the following particulars—

- (a) the identifying number and date of issue of the supplementary charge invoice,

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- (a) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 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; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners under the Act. Section 26B was inserted by section 23(1) and (4) of the Finance Act 2002 (c. 23); section 39(3) was amended by section 77 of the Finance Act 2009 (c. 10); paragraph 2(3) of Schedule 11 was amended and paragraph 2(3ZA) was inserted into Schedule 11 by section 78 of the Finance Act 2009; paragraph 2A was inserted into Schedule 11 by section 24(2) and (5) of the Finance Act 2002 by virtue of S.I. 2003/3043 and its scope was extended by paragraph 22 of Schedule 3 to the Finance Act 2009.
 - (c) 2009 c. 10.
 - (d) S.I. 1995/2518, relevant amending instruments are S.I. 1996/210, 2002/1142, 2003/1114, 2003/3220, 2004/767, 2008/3021 and 2009/586.

- (b) the amount of the supplementary charge to VAT,
- (c) the name, address and registration number^(a) of the supplier,
- (d) the name and address of the person to whom the supply is made, and
- (e) the identifying number and date of issue of the VAT invoice.”.

EU Sales Statements

4. For regulation 21 (interpretation of Part 4) substitute—

“21. In this Part—

“EU supply of goods” means a supply falling within paragraph 22(1) and “EU supplies of goods” shall be construed accordingly;

“EU supply of services” means a supply falling within paragraph 22A(1) and “EU supplies of services” shall be construed accordingly;

“first relevant figure” means, up to and including 31st December 2011, £70,000 excluding VAT and thereafter £35,000 excluding VAT;

“NMT supply of goods” means a supply falling within paragraph 22C(1) and “NMT supplies of goods” shall be construed accordingly;

“registered in another member State” means registered in accordance with the measures adopted by the competent authority in another member State for the purposes of the common system of VAT and “registered in that member State” and “registered in other member States” shall be construed accordingly;

“second relevant figure” means the sum of the amount mentioned in paragraph 1(1)(a) of Schedule 1 to the Act as that paragraph has effect from time to time and £25,500;

“supply of goods” does not include either a supply of gas supplied through the natural gas distribution network or a supply of electricity;

“value” in the phrases “value of EU supplies”, “value of the taxable person’s taxable supplies” and “value of the taxable person’s supplies” means the consideration for the supplies and includes, if the supply is a supply of goods, the costs of any freight transport services and services ancillary to the transport of the goods charged by the supplier to the customer.”.

5. For regulation 22 (submission of statements) substitute—

“22.—(1) Every taxable person who makes a supply of goods—

- (a) to a person who, at the time of the supply, was registered in another member State and those goods were dispatched or transported to that or another member State, or
- (b) to which section 14(6) of the Act applies, or
- (c) which falls within paragraph 6 of Schedule 4 to the Act to a person who, at the time of the supply, was registered in another member State,

shall submit a statement to the Commissioners.

(2) The statement shall—

- (a) be made on the Form numbered 12 in Schedule 1 to these Regulations,
- (b) contain, in respect of the EU supplies of goods which have been made within the period in respect of which the statement is made, such information as the Commissioners shall from time to time prescribe, and
- (c) contain a declaration that the information provided in the statement is true and complete.

(a) “Registration number” is defined in regulation 2(1) of S.I. 1995/2518.

(3) (a) Subject to paragraphs (4) to (6) below, the statement shall be submitted in respect of the month in which the EU supply of goods is made.

(b) Where during the period specified in sub-paragraph (a) above the taxable person (A)—

(i) ceases to be registered under Schedule 1 to the Act, and

(ii) no other person has been registered with the registration number of and in substitution for A,

the last day of that period is to be treated as being the same date as the effective date of A's deregistration.

(4) (a) This sub-paragraph applies where, in each of the four quarters^(a) preceding the quarter in which the supply is made ("the relevant quarter"), the total value of EU supplies of goods made by the taxable person (A) did not exceed the first relevant figure.

(b) This sub-paragraph applies where, in the relevant quarter, the total value of EU supplies of goods made by A did not exceed the first relevant figure.

(c) Where sub-paragraphs (a) and (b) above apply, A may submit the statement in respect of the relevant quarter.

(d) Where –

(i) sub-paragraph (a) above applies, and

(ii) sub-paragraph (b) above does not apply,

A may submit a statement in respect of the period beginning with the first day of the relevant quarter and ending on the last day of the month in which the total value of EU supplies of goods made by A in that quarter first exceeded the relevant figure.

(e) Where during the relevant quarter specified in sub-paragraph (c) above A—

(i) ceases to be registered under Schedule 1 to the Act, and

(ii) no other person has been registered with the registration number of and in substitution for A,

the last day of that period is to be treated as being the same date as the effective date of A's deregistration.

(5) (a) A statement may be submitted in respect of the year mentioned in sub-paragraphs (i) to (iv) below provided that the taxable person making the statement (A) has not, during that year, made a supply of a new means of transport^(b) and the Commissioners are satisfied either that—

(i) at the end of any month, the value of A's taxable supplies in the period of one year then ending is less than the second relevant figure, or

(ii) at any time there are reasonable grounds for believing that the value of A's taxable supplies in the period of one year beginning at that or any later time will not exceed the second relevant figure,

and either that—

(iii) at the end of any month, the value of A's supplies to persons registered in other member States in the period of one year then ending is less than £11,000, or

(iv) at any time, there are reasonable grounds for believing that the value of A's supplies to persons registered in other member States in the period of one year beginning at that or any later time will not exceed £11,000.

(a) Section 96(1) of the Value Added Tax Act 1994 defines "quarter".

(b) Section 95 of the Value Added Tax Act 1994 defines "new means of transport". Section 95 was amended by article 2 of the Value Added Tax (Means of Transport) Order 1994 (S.I. 1994/3128).

- (b) Where during a period specified in sub-paragraph (a) above A—
 - (i) ceases to be registered under Schedule 1 to the Act, and
 - (ii) no other person has been registered with the registration number of and in substitution for A,the last day of that period is to be treated as being the same date as the effective date of A's deregistration.

(6) A taxable person (A) who is permitted under regulation 25 to make a return in respect of a period longer than 3 months may submit a statement under paragraph (1) above in respect of a period identical to the period permitted for the making of the return provided that A has not, during that period, made a supply of a new means of transport and the Commissioners are satisfied either that—

- (a) at the end of any month, the value of A's taxable supplies in the period of one year then ending is less than £145,000, or
- (b) at any time, there are reasonable grounds for believing that the value of A's taxable supplies in the period of one year beginning at that or any later time will not exceed £145,000,

and either that—

- (c) at the end of any month, the value of A's supplies to persons registered in other member States in the period of one year then ending is less than £11,000, or
- (d) at any time, there are reasonable grounds for believing that the value of A's supplies to persons registered in other member States in the period of one year beginning at that or any later time will not exceed £11,000.”.

6. After regulation 22 insert—

“**22A.**—(1) Every taxable person who has made a supply of services to a person in a member State other than the United Kingdom in circumstances where the recipient is required to pay VAT on the supply in accordance with the provisions of the law of that other member State giving effect to Article 196 of Council Directive 2006/112/EC^(a) shall submit a statement to the Commissioners.

(2) The statement shall be—

- (a) made on the Form numbered 12 in Schedule 1 to these Regulations,
- (b) contain, in respect of the EU supplies of services which have been made within the period to which the statement relates, such information as the Commissioners shall from time to time prescribe, and
- (c) contain a declaration that the information provided in the statement is true and complete.

(3) (a) Subject to paragraph (4) below the statement may be submitted in respect of the period of the month or the quarter in which the EU supply of services has been made.

- (b) Where during a period mentioned in sub-paragraph (a) above the taxable person (A)—
 - (i) ceases to be registered under Schedule 1 to the Act, and
 - (ii) no other person has been registered with the registration number of and in substitution for A,the last day of that period is to be treated as being the same date as the effective date of A's deregistration.

(4) A taxable person (A) who is permitted under regulation 25 to make a return in respect of a period longer than 3 months may make a statement under paragraph (1) above in

(a) OJ No L 347, 11.12.06 p 1. Article 196 is amended with effect from 1st January 2010 by Article 2.7 of Council Directive 2008/8/EC, OJ No L 44, 20.02.08 p 11.

respect of a period identical to the period permitted for the making of the return provided that A has not, during that period, made a supply of a new means of transport and the Commissioners are satisfied either that—

- (a) at the end of any month, the value of A's taxable supplies in the period of one year then ending is less than £145,000, or
- (b) at any time, there are reasonable grounds for believing that the value of A's taxable supplies in the period of one year beginning at that or any later time will not exceed £145,000,

and either that—

- (c) at the end of any month, the value of A's supplies to persons registered in other member States in the period of one year then ending is less than £11,000, or
- (d) at any time, there are reasonable grounds for believing that the value of A's supplies to persons registered in other member States in the period of one year beginning at that or any later time will not exceed £11,000.

22B.—(1) Where statements are to be submitted under regulation 22 and 22A in respect of periods ending on the same day, the statements may be submitted on a single form.

(2) A taxable person may submit a statement under regulation 22 or 22A on paper or on-line using an electronic portal provided by the Commissioners for that purpose.

(3) A taxable person who is required to submit a statement under regulation 22 or 22A must do so—

- (a) where the statement is submitted on-line, not later than 21 days from the end of the period to which the statement relates,
- (b) in every other case, not later than 14 days from the end of the period to which the statement relates.

22C.—(1) Every taxable person who in any quarter makes a supply of a new means of transport to a person (“the acquirer”)—

- (a) for the purposes of acquisition by that acquirer in another member State, and
- (b) where the acquirer is not, at the time of the acquisition, registered in that member State,

shall submit a statement to the Commissioners.

(2) (a) The statement shall be submitted in respect of the quarter in which the NMT supply of goods is made.

- (b) Where during the period mentioned in sub-paragraph (a) above the taxable person (A)—
 - (i) ceases to be registered under Schedule 1 to the Act, and
 - (ii) no other person has been registered with the registration number of and in substitution for A,

the last day of that period is to be treated as being the same date as the effective date of A's deregistration.

(3) The statement shall—

- (a) be made on the Form numbered 13 in Schedule 1 to these Regulations,
- (b) contain, in respect of the NMT supplies of goods which have been made within the period in respect of which the statement is made, such information as the Commissioners shall from time to time prescribe,
- (c) contain a declaration that the information provided in the statement is true and complete, and
- (d) be submitted within 42 days of the end of the period to which it relates.”.

7. Omit regulation 23 (final statements).

Form 12: “Value Added Tax EC Sales List”

8. For Form number 12 in Schedule 1 to the Regulations substitute the Form set out in the Schedule to these Regulations.

Flat-rate scheme for small businesses, category of business.

9. For the Table in regulation 55K (flat-rate scheme for small businesses, category of business), substitute—

<i>Category of business</i>	<i>Appropriate percentage</i>
Accountancy or book-keeping	13
Advertising	10
Agricultural services	10
Any other activity not listed elsewhere	10.5
Architect, civil and structural engineer or surveyor	13
Boarding or care of animals	10.5
Business services that are not listed elsewhere	10.5
Catering services including restaurants and takeaways	11
Computer and IT consultancy or data processing	13
Computer repair services	9.5
Dealing in waste or scrap	9.5
Entertainment or journalism	11
Estate agency or property management services	10.5
Farming or agriculture that is not listed elsewhere	6
Film, radio, television or video production	11.5
Financial services	12
Forestry or fishing	9.5
General building or construction services*	8.5
Hairdressing or other beauty treatment services	11.5
Hiring or renting goods	8.5
Hotel or accommodation	9.5
Investigation or security	10.5
Labour-only building or construction services*	13
Laundry or dry-cleaning services	10.5
Lawyer or legal services	13
Library, archive, museum or other cultural activity	8.5
Management consultancy	12.5
Manufacturing fabricated metal products	9.5
Manufacturing food	8
Manufacturing that is not listed elsewhere	8.5
Manufacturing yarn, textiles or clothing	8
Membership organisation	7
Mining or quarrying	9
Packaging	8
Photography	10
Post offices	4.5
Printing	7.5
Publishing	10
Pubs	6
Real estate activity not listed elsewhere	12.5
Repairing personal or household goods	9

Repairing vehicles	7.5
Retailing food, confectionary, tobacco, newspapers or children's clothing	3.5
Retailing pharmaceuticals, medical goods, cosmetics or toiletries	7
Retailing that is not listed elsewhere	6.5
Retailing vehicles or fuel	6
Secretarial services	11.5
Social work	10
Sport or recreation	7.5
Transport or storage, including couriers, freight, removals and taxis	9
Travel agency	9.5
Veterinary medicine	10
Wholesaling agricultural products	7
Wholesaling food	6.5
Wholesaling that is not listed elsewhere	7.5

(1) * "Labour-only building or construction services" means building or construction services where the value of materials supplied is less than 10 per cent of relevant turnover from such services; any other building or construction services are "general building or construction services".

Time of supply

10. For regulation 82 (services from outside the United Kingdom) substitute—

"82.—(1) This paragraph applies to services which are treated as being made by a person under section 8(1) of the Act which are not services to which paragraph (3) below applies.

(2) Subject to paragraphs (5) and (7) below, the services to which paragraph (1) above applies shall be treated as being made when they are performed.

(3) This paragraph applies to services which are treated as being made by a person under section 8(1) of the Act and which are supplied for a period for a consideration the whole or part of which is determined or payable periodically or from time to time.

(4) Subject to paragraphs (5), (6) and (7) below, services to which paragraph (3) above applies shall be treated as separately and successively made at the end of the periods in respect of which payments are made or invoices issued and to the extent covered by the relevant payment or invoice.

(5) Where—

- (a) in the case of a supply of services to which paragraph (1) above applies, a payment is made in respect of the supply before the time applicable under paragraph (2) above, or
- (b) in the case of services to which paragraph (3) above applies, either—
 - (i) a payment is made at a time that is earlier than the end of the period to which it relates, or
 - (ii) a payment is made which is not made in respect of any identified period, or
- (c) a payment is made in respect of services—
 - (i) which are performed on or before 31st December 2009, or
 - (ii) in respect of which a period as described in paragraph (4) above has ended on or before that date, or
 - (iii) which the recipient has received the benefit of on or before that date,

the services shall be treated as being made at the time the payment is made.

(6) Where the supply of services to which paragraph (3) above applies—

- (a) commences before 1st January and continues after 31st December of any year, and

- (b) during that year no invoice is issued that has effect for the purposes of paragraph (4) above, and
 - (c) no payment is made in respect of that supply,
- the services supplied during that year shall be treated as being supplied on the 31st December of that year to the extent that the recipient has received the benefit of them.
- (7) Services for which the consideration is not in money and which have been supplied during a period which—
- (a) commences on the day following the last day of the last complete prescribed accounting period^(a) in 2009 which is applicable to the recipient of the services, and
 - (b) ends on 31st December 2009,
- shall be treated as being supplied on 31st December 2009.”.

Repayments to European Union traders

11. In regulation 173 (interpretation of Part 20)—

- (a) in paragraph (1)—
 - (i) omit the definitions of “calendar year” and “official authority”;
 - (ii) after the definition of “claimant” insert—
 - ““claimant’s member State” means the member State in which the claimant is established;
 - “principal VAT Directive” means Council Directive 2006/112/EC;
 - “refund Directive” means Council Directive 2008/9/EC^(b);
 - “repayment period” means a period of time falling within one of the periods described in regulation 173G;
 - “repayment year” means the period of 12 calendar months commencing on 1st January.”;
- (b) for paragraph (2) substitute—
 - “(2) For the purposes of this Part, a person (P) is treated as being established in a country if—
 - (a) P has there a business establishment or some other fixed establishment from which business transactions are effected; or
 - (b) P’s usual place of residence is there where P has no such establishment as is described in sub-paragraph (a) above in that country or elsewhere.”; and
- (c) in paragraph (3)—
 - (i) omit the word “and” immediately preceding sub-paragraph (b); and
 - (ii) after sub-paragraph (b) insert—
 - “(c) a reference to Article 170 of the principal VAT Directive is a reference to that Article—
 - (i) as amended by Article 2(3) of the Council Directive 2008/8/EC^(c), and
 - (ii) as applied in the claimant’s member State;
 - (d) a reference to Article 214 of the principal VAT Directive is a reference to that Article—
 - (i) as amended by Article 2(8) of Council Directive 2008/8/EC, and

^(a) Regulation 2(1) of S.I. 1995/2518 defines “prescribed accounting period”.

^(b) OJ No L 44, 20.02.08 p 23.

^(c) OJ No L 44, 20.02.08 p 11.

- (ii) as applied in the claimant's member State;
- (e) a reference to any other Article in the principal VAT Directive or to any Article in the refund Directive is a reference to such Article as applied in the claimant's member State; and
- (f) a reference to Council Regulation (EC) No 1798/2003(a) is a reference to that Regulation as amended by Council Regulations (EC) No 885/2004(b), (EC) No 1791/2006(c), (EC) No 143/2008(d) and (EC) No 37/2009(e).”.

12. After regulation 173 insert—

“Repayments of VAT

173A.—(1) The Commissioners shall make a repayment of VAT described in regulation 173B in accordance with this Part if—

- (a) the VAT is incurred in the repayment period covered by a repayment application;
- (b) the claimant is a person to whom this Part applies;
- (c) the claimant makes a claim for repayment of the VAT in accordance with this Part; and
- (d) the Commissioners are satisfied that the claimant is entitled to the repayment.

(2) Where—

- (a) a repayment application covering a repayment period has been submitted in accordance with this Part; and
- (b) a claim for repayment of VAT incurred in the repayment period covered by that repayment application is omitted from the repayment application,

the claim for repayment of that VAT may be made by means of a repayment application covering a later repayment period falling within the repayment year in which the VAT was incurred.

173B.—(1) The VAT referred to in regulation 173A is VAT charged on—

- (a) an importation of goods by the claimant from a place outside the member States; and
- (b) supplies of goods or services made to the claimant in the United Kingdom if that VAT would be input tax of the claimant if the claimant were a taxable person.

(2) A claim for repayment may not be made in respect of VAT charged on—

- (a) an importation of goods in respect of which the VAT charged is eligible for other relief;
- (b) a supply or importation of goods which the claimant has removed or intends to remove to another member State, or which the claimant has exported or intends to export to a place outside the member States;
- (c) a supply or importation of goods or a supply of services which the claimant has used or intends to use for the purpose of any supply by the claimant in the United Kingdom other than a supply described in regulation 173E(b)(i), (ii) or (iii);
- (d) a supply or importation of goods or a supply of services which if made to a taxable person would be excluded from credit under section 25 of the Act (payment of VAT by reference to accounting periods and credit for input tax against output tax); or

(a) OJ No L 264, 15.10.03 p 1.
 (b) OJ No L 168, 01.05.04 p 1.
 (c) OJ No L 363, 20.12.06 p 1.
 (d) OJ No L 44, 20.2.08 p 1.
 (e) OJ No L 14, 20.2.09 p 1.

- (e) a supply or importation of goods or a supply of services to a travel agent which is for the direct benefit of a traveller other than the travel agent or the travel agent's employee.

(3) In this regulation "travel agent" includes a tour operator and any person who purchases and re-supplies services of a kind enjoyed by travellers.

173C.—(1) This regulation applies to VAT charged on the goods or services described in regulation 173B(1) which—

- (a) are not goods or services described in regulation 173B(2); and
- (b) are used by the claimant both for transactions—
 - (i) giving rise to a right of deduction as required by Articles 168, 169 and 170 of the principal VAT Directive, and
 - (ii) transactions that do not give rise to a right of deduction.

(2) The VAT to which this regulation applies is repayable only to the extent of the deductible proportion of that VAT.

(3) The deductible proportion of any VAT is the proportion of that VAT that the claimant would be entitled to deduct in accordance with Articles 173, 174 and 175 of the principal VAT Directive if the VAT were chargeable in the claimant's member State.

173D.—(1) This regulation applies where—

- (a) a claim ("the original claim") for repayment of VAT to the extent of the deductible proportion of that VAT described in regulation 173C has been made; and
- (b) the deductible proportion used in making the claim was determined on a provisional basis as described in Article 175(2) of the principal VAT Directive.

(2) Where the amount of VAT claimed in the original claim is less than the VAT that would have been repayable if the deductible proportion had been determined by reference to the final proportion described in Article 175(3) of the principal VAT Directive, the VAT representing the difference between the two amounts may be claimed by means of a repayment application submitted during the adjustment year as if that VAT had been incurred during the repayment period covered by that repayment application.

(3) Where the amount of VAT claimed in the original claim is more than the VAT that would have been repayable if the deductible proportion had been determined by reference to the final proportion described in Article 175(3) of the principal VAT Directive, the VAT representing the difference between the two amounts must be repaid to the Commissioners—

- (a) by way of adjustment of a repayment claim made by means of a repayment application submitted in the adjustment year, or
- (b) if no repayment claim is made as described in sub-paragraph (a) above, the payment back to the Commissioners must be made pursuant to a declaration submitted using the electronic portal set up by the claimant's member State for the purpose of facilitating repayments of VAT in accordance with the refund Directive before the expiry of the adjustment year.

(4) In this regulation "adjustment year" means the repayment year beginning immediately after the repayment year in which the repayment period of the original claim occurred or would have occurred if the original claim had been made in respect of the repayment period when the VAT was incurred.

Persons to whom this Part applies

173E. This Part applies to a person who is established in and who carries on business in a member State other than the United Kingdom for the whole of a repayment period other than a person who—

- (a) is established in the United Kingdom during any part of the repayment period;

- (b) makes supplies in the United Kingdom of goods or services during any part of the repayment period other than—
 - (i) transport of freight outside the United Kingdom or to or from a place outside the United Kingdom or services ancillary thereto,
 - (ii) services where the VAT on the supply is payable solely by the person to whom the services are supplied in accordance with the provisions of section 8(a) of the Act (reverse charge on supplies received from abroad), and
 - (iii) goods where the VAT on the supply is payable solely by the person to whom they are supplied as provided for in section 9A(b) (reverse charge on gas and electricity supplied by persons outside the United Kingdom) or 14 (acquisitions from persons belonging in other member States) of the Act;
- (c) during any part of the repayment period, does not undertake or intend to undertake transactions in the member State where that person is established which afford that person a right of deduction in accordance with Articles 168 and 169 of the principal VAT Directive as applied in the member State where that person is established;
- (d) makes or intends to make supplies in the repayment period upon which VAT was not or would not be charged by virtue of their being within the exemption afforded to small enterprises under Articles 284, 285, 286 and 287 of the principal VAT Directive as applied in the member State in which that person is established; or
- (e) makes or intends to make supplies in the repayment period which are covered by the flat-rate scheme for farmers provided for in Articles 295 to 305 of the principal VAT Directive as applied in the member State in which that person is established.

Time when VAT is incurred

173F.—(1) Paragraphs (2) to (4) below apply for determining the time when VAT is incurred for the purposes of a claim under this Part.

(2) VAT charged on the importation of goods is treated as incurred at the time when the VAT becomes chargeable.

(3) Where a supply of goods or services is treated as made at or before the time when the VAT invoice relating to it is issued, the VAT on that supply will be treated as incurred at the time when the VAT invoice is issued.

(4) Where a supply of goods or services is treated as made after the time when the VAT invoice relating to it is issued, the VAT will be treated as incurred at the time when the supply is treated as made.

Repayment period

173G. A repayment period may be for a period of time covering—

- (a) a repayment year;
- (b) three or more consecutive months occurring wholly within a repayment year; or
- (c) the remainder of a repayment year where the period commences after 30th September in that year.

(a) 1994 c. 23; section 8 was amended by section 42 of the Finance Act 1997 (c. 16) and paragraph 5 of Schedule 36 to the Finance Act 2009.

(b) Section 9A was inserted by section 21 of the Finance Act 2004 (c. 12).

Minimum total claim for a repayment period

173H.—(1) A claim for a repayment period must not be made unless the total amount claimed for the period is equal to or exceeds the minimum amount specified in paragraph (2) below.

- (2) The minimum amount specified for a repayment period is—
- (a) £35 in respect of the repayment period described in regulation 173G(a);
 - (b) £295 in respect of the repayment period described in regulation 173G(b); and
 - (c) £35 in respect of the repayment period described in regulation 173G(c).

Requirements for a claim for repayment of VAT

173I. A claim for repayment of VAT under this Part must be made by means of a repayment application that—

- (a) is addressed to the United Kingdom;
- (b) contains the information required in regulations 173L and 173M completed in the English language;
- (c) is submitted at any time before the day specified in regulation 173P using the electronic portal set up by the claimant's member State for the purpose of facilitating repayments of VAT in accordance with the refund Directive.

173J. Where a claim for repayment of VAT under this Part comprises or includes a claim made in respect of a supply or importation described in regulation 173K, copies of such documentary evidence of an entitlement to deduct VAT as could be required of a taxable person claiming deduction of input tax in accordance with regulation 29(a) (requirements in connection with making claims for deduction of input tax) must be submitted using the electronic portal described in regulation 173I(c) at the same time as the repayment application in respect of that VAT.

173K. The supplies or importations referred to in regulation 173J are—

- (a) a supply of goods or services of a value equal to or exceeding £750;
- (b) an importation of goods of a value equal to or exceeding £750; and
- (c) a supply or importation of fuel of a value equal to or exceeding £200.

Contents of a repayment application

173L.—(1) A repayment application must contain the following information—

- (a) the claimant's name and full address;
- (b) an address for contact by electronic means;
- (c) a description of the claimant's business activity for which the goods or services were acquired by reference to the appropriate harmonised code contained in revision 2 of the common statistical classification of economic activities referred to as "NACE Rev. 2" established by the European Parliament and Council Regulation (EC) No 1983/2006(b);
- (d) the repayment period covered by the application;
- (e) a declaration that the claimant has made no supply falling within paragraph (2) below during any part of the repayment period;

(a) Regulation 29 was amended by S.I. 2003/1114 and 2009/586.

(b) OJ No L 393, 30.12.06 p 1.

- (f) the VAT identification number or tax reference number by which the claimant is identified for VAT purposes in the claimant's member State in accordance with Articles 214, 239 or 240 of the principal VAT Directive;
- (g) the details of the bank account to which the claimant requests the Commissioners to repay the VAT claimed; and
- (h) the information described in regulation 173M in relation to every importation of goods or supply in respect of which repayment of VAT charged thereon is claimed in the repayment application.

(2) A supply is within this paragraph if it is a supply of goods or services made in the United Kingdom other than a supply mentioned in regulation 173E(b)(i), (ii) or (iii).

173M. In respect of every importation of goods or supply in respect of which repayment of VAT charged thereon is claimed, a repayment application must contain the following information—

- (a) the full name and address of the supplier;
- (b) except in the case of an importation of goods, the registration number of the supplier and the prefix “GB” or such other prefix by which the United Kingdom is identified in accordance with the requirements of Article 215 of the principal VAT Directive;
- (c) the date of issue of, and the unique sequential number identifying, the document authenticated or issued by a proper officer^(a) in respect of the importation of goods or the VAT invoice issued in respect of the supply;
- (d) the value of the supply or of the imported goods (expressed in sterling) as determined under the Act but excluding the VAT chargeable on the supply or importation;
- (e) the amount (expressed in sterling) of VAT chargeable on the supply or importation;
- (f) the amount of VAT on the supply or importation eligible for repayment under this Part expressed in sterling;
- (g) where applicable, the fraction described in regulation 173N, expressed as a percentage; and
- (h) the nature of goods and services acquired, described in accordance with regulation 173O.

173N. The fraction referred to in regulation 173M(g) is the fraction described in Article 174(1) of the principal VAT Directive that would determine the deductible proportion of the VAT that the claimant would be entitled to deduct in accordance with Articles 173, 174 and 175 of that Directive if the VAT were chargeable in the claimant's member State.

173O.—(1) The nature of the goods or services in respect of which repayment of VAT under this Part is claimed must be described by reference to—

- (a) the harmonised numerical codes in paragraph (2) below; and
- (b) where paragraph (3) below applies, the harmonised numerical codes for the goods and services concerned referred to in paragraph (4) below.

(2) The harmonised numerical codes referred to in paragraph (1) above are—

- (a) code 1 in respect of fuel;
- (b) code 2 in respect of hiring of means of transport;
- (c) code 3 in respect of expenditure relating to means of transport (other than the goods and services referred to by codes 1 and 2);

(a) Regulation 2(1) of S.I. 1995/2518 defines “proper officer”.

- (d) code 4 in respect of road tolls and road user charges;
- (e) code 5 in respect of travel expenses, such as taxi fares and public transport fares;
- (f) code 6 in respect of accommodation;
- (g) code 7 in respect of food, drink and restaurant services;
- (h) code 8 in respect of admissions to fairs and exhibitions;
- (i) code 9 in respect of expenditures on luxuries, amusements and entertainment;
- (j) code 10 in respect of other goods and services.

(3) This paragraph applies where the goods or services in respect of which repayment of VAT under this Part is claimed fall within any of the descriptions of goods or services represented by such of the harmonised numerical codes contained in the annex to Commission Regulation (EC) No 1174/2009 as listed in paragraph (4) below^(a).

(4) The harmonised numerical codes referred to in paragraph (3) above are codes 1.6, 2.2, 2.4, 2.5.1, 2.5.2, 2.6.1, 2.6.2, 2.7, 2.9.1, 2.9.2, 3.2.1, 3.2.2, 3.2.3, 3.4.1, 3.4.2, 3.5.1, 3.5.2, 3.6.1, 3.6.2, 3.7.1, 3.7.2, 3.8.1, 3.8.2, 3.9, 3.10, 3.12, 5.1, 5.2, 5.3.1, 5.3.2, 6.1, 6.2, 6.4.1, 6.4.2, 6.6, 7.1.1, 7.1.2, 7.2.1, 7.2.2, 7.4, 8.1, 8.2, 9.1, 9.2, 9.3.1, 9.3.2, 9.4, 9.5, 9.6, 9.7, 10.1, 10.2, 10.3, 10.4.1, 10.4.2, 10.4.3, 10.5.1, 10.5.2, 10.5.3, 10.6, 10.7, 10.8, 10.9.1, 10.9.2, 10.9.3, 10.9.4, 10.10, 10.11, 10.12, 10.13, 10.14, 10.15, 10.16.1, 10.16.2, 10.16.3, 10.16.4, 10.17.1 and 10.17.2.

(5) Goods or services which fall within harmonised numerical code 10 in paragraph (2)(j) above but which do not fall within any of the harmonised numerical codes specified in paragraph (4) above must be expressly described in addition to their description by reference to harmonised code 10.

Day by which a claim under this Part must be made

173P.—(1) The day before which a repayment application in respect of a repayment period must be submitted in accordance with regulation 173I(c) is 1st October of the repayment year immediately following the repayment year in which the repayment period covered by the repayment application falls.

(2) A repayment application will be treated as having been submitted in accordance with regulation 173I(c) only if its submission is successfully recorded by the validation process of the electronic portal described in that regulation.

(3) The time of submission of a repayment application will be conclusively presumed to be the time recorded as such by the electronic portal.

(4) The Commissioners must, by electronic means, notify a claimant of the day on which the claimant's repayment application is received by the Commissioners.

Notification of entitlement to repayment

173Q.—(1) The Commissioners must notify a claimant whether they are satisfied that the claimant is entitled to repayment of VAT claimed under this Part before the expiry of the relevant period applicable to the VAT in question.

(2) If the Commissioners are not satisfied that the claimant is entitled to repayment of any VAT claimed, they must state their reasons in the notification.

(3) If the Commissioners do not, in relation to any VAT claimed for repayment under this Part, notify a claimant in accordance with paragraph (1) above, they shall be deemed to have refused to make payment of the VAT in question for the purposes of section 83(1)(ha) of the Act^(b) (appeals against refusal by the Commissioners to make repayment).

(a) OJ No L 314, 01.12.09 p 50.

(b) Section 83(1)(ha) was inserted by section 77(4) of the Finance Act 2009 (c. 10).

Requests for further information or a document

173R.—(1) This regulation applies where, in order for the Commissioners to satisfy themselves whether a claimant is entitled to a repayment of VAT under this Part, information or the production of a document is requested by means of—

- (a) a notice pursuant to Schedule 36 of the Finance Act 2008^(a) (information and inspection powers); or
- (b) a request to the competent authority of another member State in accordance with Council Regulation (EC) No 1798/2003^(b) and Commission Regulation (EC) No 1925/2004^(c).

(2) A request for information or the production of a document made to a claimant or competent authority of a member State must be made by electronic means.

(3) In any other case, a request for information or a document must be made by—

- (a) electronic means if such means are available to the recipient of the request; or
- (b) such other means as are expedient.

(4) A request for information or a document must be made before the expiry of the relevant period applicable to the VAT in question.

(5) There is no limit on the number of requests for information or documents that may be made before the expiry of relevant period applicable to the VAT in question.

(6) The question whether a request for information or the production of a document has been made before the expiry of a relevant period applicable to any VAT shall take account of any extension of the 4-month period mentioned in regulation 173S by virtue of regulations 173T and 173U resulting from a request that has already been made but no account shall be taken of any further extension to the relevant period that would arise if the request in question were to be made.

(7) In this regulation, references to the competent authority of a member State are references to the authorities listed as competent authorities in relation to the member States in Article 2 of Council Regulation (EC) No 1798/2003.

Relevant period applicable to any VAT for which repayment is claimed

173S. The relevant period applicable to any VAT for which repayment is claimed in this Part is the period which—

- (a) commences on the day when the Commissioners receive the repayment application in respect of the VAT claimed, and
- (b) ends 4 months after that day unless the end of that period is determined in accordance with regulations 173T or 173U.

Extension of the relevant period by virtue of the making of a request for information or a document

173T.—(1) Where a request for information or the production of a document as described in regulation 173R is made, then, subject to paragraphs (2), (3) and (4) below and regulation 173U, the relevant period applicable to the VAT in question shall end on the expiry of 2 months from the day on which the Commissioners receive the information or document requested.

(2) Where, by virtue of paragraph (1) above, the relevant period applicable to any VAT would end before the expiry of 6 months from the date on which the Commissioners

(a) 2008 c. 9.

(b) OJ No L 264, 15.10.03 p 1.

(c) OJ No L 331, 15.11.04 p 13 and OJ No L 322, 2.12.08 p 37.

received the repayment application for the VAT in question, the relevant period shall end on the expiry of that 6-month period.

(3) Where, by virtue of paragraph (1) above, the relevant period applicable to any VAT would end after the expiry of 8 months from the day on which the Commissioners received the repayment application for the VAT in question, the relevant period shall end on the expiry of that 8 month period.

(4) Where the Commissioners do not receive the information or a document requested before the expiry of 1 month from the date on which the request reaches the intended recipient of it, the end of the relevant period shall be determined in accordance with this regulation as if the Commissioners had received the requested information or document upon the expiry of that 1-month period.

Extension of the relevant period where more than one request for information or a document is made in relation to the same VAT

173U.—(1) This regulation applies to determine the end of the relevant period applicable to any VAT where more than one request for information or the production of a document as described in regulation 173R is made in relation to that VAT.

(2) Where the requests are—

- (a) made on different days; or
- (b) received by the recipients of the requests on different days,

the end of the relevant period shall be determined in accordance with regulation 173T as if all of the requests were comprised in a single request (“composite request”) made on the latest day when a request forming part of the composite request was made.

(3) The question whether information or a document requested by a composite request has been provided to the Commissioners within the 1-month period mentioned in regulation 173T(4) shall be determined as if the composite request had been received on the latest day on which any of the requests forming part of the composite request is received.

Time when a repayment of VAT must be made

173V.—(1) VAT to which a claimant is entitled to repayment under this Part must be paid by the Commissioners within 10 business days of the expiry of the relevant period in relation to that VAT.

(2) For these purposes, a “business day” is any day except—

- (a) Saturday, Sunday, Good Friday or Christmas Day;
- (b) a bank holiday under the Banking and Financial Dealings Act 1971(a);
- (c) a day appointed by Royal proclamation as a public fast or thanksgiving day(b); or
- (d) a day declared by an order under section 2(1) of the Banking and Financial Dealings Act 1971 to be a non-business day(c).

Interest on late payments

173W.—(1) Where the Commissioners fail to repay VAT to which a claimant is entitled to repayment under this Part before the expiry of the period described in regulation 173V, they must pay interest on that amount to the claimant for the applicable period.

(a) 1971 c. 80; section 1 of and Schedule 1 to that Act relate to bank holidays. Schedule 1 was amended by the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2).

(b) This follows the Bills of Exchange Act 1882 (c. 61), section 92(c). Amendments to section 92 were made by sections 3(1), 4(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(c) This follows the Bills of Exchange Act 1882 (c. 61), section 92(d). Section 92(d) was inserted by section 4(4) of the Banking and Financial Dealings Act 1971, section 4(3) of which deals with such orders.

- (2) The “applicable period” is the period—
- (a) beginning upon the expiry of the period described in regulation 173V, and
 - (b) ending on the day on which the Commissioners authorise the repayment to the claimant.

(3) Interest under this regulation shall be payable at the same rate as would have been payable if the Commissioners had been required to pay interest to the claimant pursuant to section 78 of the Act^(a) during the applicable period.

- (4) Where—
- (a) a claimant is requested to provide information or produce a document by a notice described in regulation 173R, and
 - (b) the claimant fails to provide the information or to produce the document within 1 month of receiving the notice,

the Commissioners shall not be liable to pay any interest under this regulation in respect of the VAT in relation to which the request was made even if the claimant provides the information or produces the document requested at a later time.

(5) The Commissioners shall not be liable to pay interest under this regulation during any period where a claimant has not provided to the Commissioners the documents described in regulation 173J that are required to be submitted at the same time as a repayment application in respect of supplies or importations described in regulation 173K.

173X. Where—

- (a) any amount has been paid to any person by way of interest under regulation 173W, but
- (b) that person was not entitled to that amount under that regulation,

the amount paid shall be treated for the purposes of the Act as if it had been an amount paid to that person by way of interest under section 78 of the Act (interest in certain cases of official error) in circumstances where that person was not entitled to that amount under that section.”.

13. Omit regulations 174, 175, 176, 177, 178 and 179 and the sub-headings immediately preceding each of those regulations.

14. In regulation 181 (treatment of claim), after “Schedule 11 to the Act” insert “made in respect of a prescribed accounting period comprising the repayment period of the claim”.

15. Omit regulations 182, 183 and the words “and repayment claimed” from the sub-heading immediately preceding regulation 181 and the words “false, altered or” from the sub-heading immediately preceding regulation 183.

Repayments to third country traders

16.—(1) In regulation 194 (treatment of claim), after “Schedule 11 to the Act” insert “made in respect of a prescribed accounting period^(b)”.

17. Omit regulation 195 and the words “and repayment claimed” from the sub-heading immediately preceding regulation 194.

Transitional provision

18. A claim for repayment of VAT in accordance with Part 20 of the Value Added Tax Regulations 1995 made before these regulations come into force shall be determined and, if

(a) 1994 c. 23; section 78 was amended by section 197(6)(d) of the Finance Act 1996 (c. 8), section 44 of the Finance Act 1997 (c. 16), section 4(2) of the Finance (No. 2) Act 2005 (c. 22) and paragraph 35 of Schedule 39 to the Finance Act 2008.

(b) “Prescribed accounting period” is defined in section 25(1) of the Value Added Tax Act 1994.

appropriate, repayment made in accordance with that Part as it stood before the amendments made by these Regulations.

Dave Hartnett
Bernadette Kenny

9th December 2009

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

SCHEDULE

Regulation 8

Form number 12: Value Added Tax EC Sales List

Value Added Tax EC Sales List

If blank, please enter your name and address here

Please enter the following details. If you don't, we won't be able to use the information you give on the rest of this form.

VAT Registration Number

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Branch/subsidiary identifier Period reference *MMYY*

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To avoid a penalty, please make sure this form reaches HMRC **within 14 days** of the period end date.

Enter the dates
in the format
DD MM YYYY

Period for goods from to

Period for services from to

If you move, transfer, supply or sell goods or supply services to other EU countries you have to complete an EC Sales List. If you have not been involved in any such transactions during this period, you **do not** need to complete this form.

If you file your EC Sales List online, you will get an extra seven days to do so. To find out more go to www.hmrc.gov.uk and under *do it online* select *VAT Online*.

Before you start, please enter your details at the top of this page. When we receive this form we will scan it, so please write clearly in black ink and leave blank any boxes that don't apply to you. The notes on page 2 will help you complete the rest of this form. If you have more than eight transactions to record, please use a VAT101A *Continuation sheet*. See page 2 for details. For further advice go to www.hmrc.gov.uk or phone our Helpline on **0845 010 9000** (Monday to Friday, 8am to 8pm).

Country code	Customer VAT Registration Number	Total value of supplies in pounds sterling	Indicator
<input type="text"/>	<input type="text"/>	£ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> · 00 <input type="text"/>
<input type="text"/>	<input type="text"/>	£ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> · 00 <input type="text"/>
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Declaration You, or someone on your behalf, must sign below.

I declare that the information given on this form and any continuation sheets is correct and complete to the best of my knowledge.

Signature

Contact number *In case we need to speak to you*

<input type="text"/>

Full name of signatory in capital letters

Date *DD MM YYYY*

Number of pages to this list

<input type="text"/>

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>

Before you start

Monthly Sales Lists

If you supply goods and services and are required to file your EC Sales List for goods monthly:

- you may report **goods only** in months 1 and 2 and report **goods** for the month and **services** for the whole quarter in month 3, or
- you can report goods and services each month.

Simplified annual EC Sales List (ESL) for supplies of goods

If HM Revenue & Customs has given you approval to submit a simplified annual ESL because you have low levels of supplies of goods to other EC countries, you are not required to enter the actual value of supplies.

Instead, enter a nominal total value of £1. Then follow the rest of the guidance about the VAT Registration Number and the indicator box.

How to fill in this form

- Write inside the boxes. Use black ink and capital letters.
- If you make a mistake, please cross it out and write the correct information below it.
- Leave blank any boxes that don't apply to you - please don't strike through them. **Do not** write 'none'.
- Only include your sales for the period(s) shown on page 1.
- Enter each type of sale on a separate line.

Country code

Enter your customer's country code. This is made up of two letters. It can only be one of the codes shown below.

EC country codes					
Austria	AT	Germany	DE	Netherlands	NL
Belgium	BE	Greece	EL	Poland	PL
Bulgaria	BG	Hungary	HU	Portugal	PT
Cyprus	CY	Ireland	IE	Romania	RO
Czech Republic	CZ	Italy	IT	Slovak Republic	SK
Denmark	DK	Latvia	LV	Slovenia	SI
Estonia	EE	Lithuania	LT	Spain	ES
Finland	FI	Luxembourg	LU	Sweden	SE
France	FR	Malta	MT		

Customer's VAT Registration Number

Enter your customer's VAT Registration Number starting from the left hand side.

Please **do not** include the country code in this column, or any spaces, dashes or commas. If you need to, refer to Notice 725 *The Single Market* to check how VAT numbers for each of the EC countries are formatted.

One of the conditions for zero-rating supplies of goods and services to other EC countries is that you must provide a **valid** VAT Registration Number for each of your customers.

You can check that a number is valid on the Europa website. Go to www.ec.europa.eu/taxation_customs/vies

Total value of supplies and the indicator box

In all cases, enter the total, rounded down to the nearest pound sterling. Enter each amount starting from the right hand side. We have already added the 'zero' pence and decimal point for you. Please **do not** add commas.

If you have a minus figure to enter because the value of credit notes is greater than the total value of supplies, enter a minus sign in a white box **before** each value.

Please note that you may need up to three lines for each customer. This is because the total value of **each type of sale** needs to be entered. For example, if you have supplied goods direct **and** as a triangulated sale **and** have supplied a service, you must complete three lines for that customer. Further guidance is given below.

- If you supplied goods, enter the value (including related costs) of all the goods supplied to that customer (deducting credit notes where appropriate). Leave the indicator column **blank**.

Related costs includes services which form part of the goods, such as freight and insurance charges.

- If you were an intermediate supplier in a triangulated sale, enter the total value of the supplies to each customer on a separate line from any other supplies made to that customer. Enter **2** in the indicator column.
- If you supplied services which were subject to the reverse charge in the customer's member state, enter the total value of these supplies on a separate line. Enter **3** in the indicator column.

Other forms you may need

If you need more space please do not add lines to this form. Please use the form VAT101A *Continuation sheet*.

If you need to correct any data supplied in a previous period or supply previously omitted data, please do so on form VAT101B *Correction to EC Sales List*.

To obtain any of these forms, please go to www.hmrc.gov.uk select Find a Form and enter the form number (for example, *VAT101A* or *VAT101B*). Or phone the Helpline on **0845 010 9000** and ask for copies.

What to do next

When you have completed and signed this form please send it in the addressed envelope to:

HM Revenue & Customs
Comben House
Farriers Way
Liverpool
L75 1AY

To avoid a penalty, please make sure this form reaches us on time.

Need help?

If you need further guidance on EC Sales Lists please refer to Notice 725 *The Single Market* which is available online. Go to www.hmrc.gov.uk or phone the Helpline on **0845 010 9000** Monday to Friday, 8am to 8pm.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 2010, amend Parts 3 (VAT invoices and other invoicing requirements), 4 (EC sales statements), 7A (flat-rate scheme for small businesses), 11 (time of supply and time of acquisition), 20 (repayments to Community traders) and 21 (repayments to third country traders) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the Principal Regulations”).

Regulation 3 inserts a new regulation 15A (change of rate, supplementary charge invoices). It requires a supplementary charge invoice to be issued in circumstances where a supplementary charge to VAT becomes due following the reversion of the VAT rate to 17.5 % on 1st January 2010 and specifies what such an invoice must contain.

Regulations 4 to 8 substitute new regulations 21 and 22, insert new regulations 22A to 22C, omit regulation 23 and substitute a new Form 12 in Schedule 1 to the Principal Regulations.

Articles 254 and 262 to 271 of Council Directive 2006/112/EC (“the Principal VAT Directive”) impose an obligation on taxpayers to provide information regarding cross-border movements of goods to persons registered for VAT in other member States and regarding supplies of new means of transport to unregistered persons in other member States.

Articles 262 to 271 were amended, with effect from 1 January 2008, by articles 2(9) and (10) of Council Directive 2008/8/EC (“the first amending directive”) and article 1(3) to (5) of Council Directive 2008/117/EC (“the second amending directive”) to require taxpayers to provide information about cross-border supplies of services to persons registered in other member States where the recipients of those supplies are liable to account for the VAT on them (“reverse charge”) and to specify new rules about the periods in respect of which information about cross-border supplies to taxable persons should be given.

The amendments made by regulations 4 to 8 implement these new requirements and reiterate the obligations regarding cross-border supplies of new means of transport. Regulation 21 provides definitions and interpretative provisions relevant to Part 4 of the Principal Regulations. Regulations 22 (goods) and 22A (services) define the circumstances which give rise to an obligation to provide information regarding cross-border supplies to registered persons in other member States, provides the Commissioners for Revenue and Customs (“the Commissioners”) with the power to specify the type of information required and defines the periods by reference to which the information must be supplied. Regulation 22B permits the information required under regulations 22 and 22A to be submitted electronically and specifies the time limits within which the information must be provided. Regulation 22C defines the circumstances which give rise to the obligation to provide information about supplies of new means of transport to unregistered persons in other member States, provides the Commissioners with the power to specify the type of information required and defines the periods by reference to which the information must be supplied.

Regulation 8 substitutes a new Form 12 for the purposes of providing information under regulations 22 (as amended) and 22A

Regulation 9 amends regulation 55K (flat rate scheme for small businesses, category of business) to substitute a new table with revised percentages to reflect the reversion of the VAT rate to 17.5% on 1st January 2010 and make other adjustments required to reflect the net tax payable by businesses which do not use the scheme.

Regulation 10 substitutes a new regulation 82 (services from outside the United Kingdom) which specifies when the services to which section 8(1) of the Value Added Tax Act 1994 (c. 23) applies (cross-border supplies of services subject to a reverse charge) (“section 8(1) services”) are to be treated as having been supplied.

The new regulation 82, in relation to section 8(1) services, gives effect to the provisions which determine the time of supply of services in articles 63 to 66 of the Principal VAT Directive, articles 64 and 66 of which were amended by article 1(1) and (2) of the second amending directive. From 1st January 2010 the derogation in article 66 of the Principal VAT Directive is no longer available to determine the time of supply of cross-border supplies of services which are subject to a compulsory reverse charge pursuant to article 196 of the Principal VAT Directive and a new rule is applied to determine the time of supply of such services where they are supplied continuously for a year without payment or invoicing.

The amendments made by regulation 10 implement the amendments made to articles 64 and 66 of the Principal VAT Directive by the second amending directive and apply the provisions of articles 64 to 66 to all section 8(1) services.

The new regulation 82 makes provision as to when (1) services performed up to and including 31st December 2009, (2) services performed after that date and (3) services supplied over a period which are invoiced or paid for periodically are treated as being made.

Regulations 11 to 18 amend Part 20 of the Principal Regulations (repayments to Community traders) and implement Council Directive 2008/9/EC.

Regulation 11 amends definitions and interpretative provisions contained in regulation 173 of the Principal Regulations.

Regulation 12 inserts regulations 173A to 173X into the Principal Regulations. A business established in a member State other than the United Kingdom may claim from the Commissioners repayment of VAT incurred by the business on goods and services purchased in the United Kingdom that are used by the business for its business purposes if it submits a repayment application electronically using an electronic portal created by the tax authorities of the member State where the business is established.

Regulation 173A provides that the Commissioners must make repayment of VAT where a claim for repayment is made in accordance with Part 20 and the Commissioners are satisfied that it is valid.

Regulation 173B describes the VAT that may be repaid in accordance with Part 20.

Regulation 173C provides the extent to which certain VAT described in regulation 173B may be repaid.

Regulation 173D provides the circumstances in which a repayment of VAT made to the extent provided for by regulation 173C is liable to be adjusted after the making of the original claim.

Regulation 173E describes the persons eligible to make claims pursuant to Part 20.

Regulation 173F provides for the time when VAT is treated as incurred for the purpose of establishing the repayment period in respect of which a claim pursuant to Part 20 must be made.

Regulation 173G provides for the periods of time a repayment period may cover.

Regulation 173H sets the minimum total amounts that may be claimed in respect of a repayment period.

Regulation 173I specifies the requirements for a repayment claim pursuant to Part 20.

Regulations 173J and 173K provide for additional documentary evidence to be submitted at the time when a repayment application is made in respect of goods or services exceeding specified values.

Regulations 173L to 173O specify the information to be provided by a repayment application.

Regulation 173P provides for the day before which a repayment application in respect of a repayment period must be submitted using an electronic portal.

Regulation 173Q provides that the Commissioners must notify a claimant whether the claimant is entitled to repayment before the expiry of the relevant period applicable to the VAT in question and to state their reasons if they are not so satisfied.

Regulation 173R provides for the time by which a request for information or the production of a document required in order to satisfy the Commissioners whether a claimant is entitled to a repayment of VAT under Part 20 must be made and the circumstances in which such requests must be made by electronic means.

Regulation 173S provides that the relevant period applicable to any VAT for which repayment is claimed commences on the day the Commissioners receive the repayment application and ends 4 months after that day unless the end of the period is determined in accordance with regulations 173T or 173U.

Regulation 173T provides that the relevant period is extended where a request for information or the production of a document is made before the end of the relevant period applicable to the VAT in question.

Regulation 173U provides for the extension of the relevant period where more than one request for information or the production of a document is made.

Regulation 173V provides that, where a claimant is entitled to repayment of VAT under Part 20, the repayment must be made within 10 working days of the expiry of the relevant period.

Regulation 173W provides for the circumstances in which the Commissioners will pay interest where repayment is not made within in accordance with regulation 173V.

Regulation 173X provides for a person to pay back to the Commissioners an amount that has been paid to that person by way of interest under regulation 173W if that person was not entitled to the payment.

Regulation 13 omits regulations 174, 175, 176, 177, 178 and 179 of the Principal Regulations.

Regulation 14 amends regulation 181 of the Principal Regulations so that a claim under Part 20 is treated for the purposes of section 73 of the Act as a return required under paragraph 2 of Schedule 11 to the Act made in respect of a prescribed accounting period comprising the repayment period of the claim.

Regulation 15 omits regulations 182 and 183 of the Principal Regulations.

Regulation 16 amends regulation 194 of the Principal Regulations so that a claim under Part 21 is treated for the purposes of section 73 of the Act as a return required under paragraph 2 of Schedule 11 to the Act made in respect of a prescribed accounting period.

Regulation 17 omits regulation 195 of the Principal Regulations.

Regulation 18 provides that a claim for repayment of VAT in accordance with Part 20 of the Principal Regulations made before these Regulations come into force shall be determined and, if appropriate, repayment made in accordance with that Part as it stood before the amendments made by these Regulations.

A full Impact Assessment of the effects that the changes made by regulations 4 to 8 and 10 of this instrument will have on the costs of business and the voluntary sector is available from H M Revenue and Customs, 100 Parliament Street, London SW1A 2BQ and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website (<http://www.opsi.gov.uk>).

A full Impact Assessment of the effects that the changes made by regulation 9 of this instrument will have on the costs of business and the voluntary sector is available from H M Revenue and Customs, 100 Parliament Street, London SW1A 2BQ and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

A full Impact Assessment of the effects that the changes made by regulations 11 to 18 of this instrument will have on the costs of business and the voluntary sector is available from H M Revenue and Customs, 100 Parliament Street, London SW1A 2BQ and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

A full Impact Assessment has not been produced in relation to the changes made by regulation 3 of this instrument as no impact on the private or voluntary sectors is foreseen.

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