

2019 No.

VALUE ADDED TAX

The Value Added Tax (Amendment) Regulations 2019

Made - - - - - ***

Laid before the House of Commons ***

Coming into force - - - - - ***

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sub-paragraphs (1), (10)(b), (10)(c), (10)(d) and (11) of paragraph 2 of Schedule 11 to the Value Added Tax Act 1994 (a).

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Amendment) Regulations 2019 and come into force on ***.

Amendment of Part 3 of the Value Added Tax Regulations 1995

2. Part 3 of the Value Added Tax Regulations 1995(b) (VAT invoices and other invoicing requirements) is amended as follows.

3. After regulation 15B insert—

“Debit notes and credit notes: changes in consideration

15C.—(1) This regulation applies to increases in consideration and decreases in consideration as described in regulation 24A.

(2) Where there is an increase in consideration for a supply, the supplier shall, within 14 days of the time when the increase occurs, provide to the recipient of the supply a debit note headed “Debit note – increase in consideration” containing the following particulars—

- (a) the identifying number of the debit note,
- (b) the date of issue of the debit note,
- (c) the name, address and registration number of the supplier,
- (d) the name and address of the recipient of the supply,

(a) 1994 c.23 (“the Act”). Section 96(1) of the Act defines “the Commissioners” as meaning “the Commissioners of Customs and Excise” and “regulations” as meaning regulations made by the Commissioners under the Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c.11), section 50(1) of which 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) S.I. 1995/2518.

- (e) the identifying number and date of issue of the VAT invoice relating to the supply for which there is an increase in consideration,
- (f) a description sufficient to identify the goods or services supplied,
- (g) the amount of the increase in consideration excluding VAT,
- (h) the rate and the amount (expressed in sterling) of the VAT chargeable in respect of the increase in consideration.

(3) Where there is a decrease in consideration for a supply, the supplier shall, within 14 days of the time when the decrease occurs, provide to the recipient of the supply a credit note headed “Credit note – decrease in consideration” containing the following particulars—

- (a) the identifying number of the credit note,
- (b) the date of issue of the credit note,
- (c) the name, address and registration number of the supplier,
- (d) the name and address of the recipient of the supply,
- (e) the identifying number and date of issue of the VAT invoice relating to the supply for which there is a decrease in consideration,
- (f) a description sufficient to identify the goods or services supplied,
- (g) the amount of the decrease in consideration excluding VAT,
- (h) the rate and the amount (expressed in sterling) of the VAT credited in respect of the decrease in consideration,
- (i) the date on which the supplier made payment in respect of the decrease in consideration and the name and address of the person to whom such payment was made.

(4) The requirement in paragraphs (2) and (3) to provide a debit note or a credit note does not apply in cases where a supplier was not required by these regulations to provide a VAT invoice in relation to the supply.

(5) In relation to any increase or decrease in consideration for supplies to which regulation 16A applies, the supplier—

- (a) shall not be required to include, in a debit note, the particulars described in subparagraphs (a), (d) and (e) of paragraph (2);
- (b) shall not be required to include, in a credit note, the particulars set out in subparagraphs (a), (d) and (e) of paragraph (3).

(6) The documents described in paragraphs (2) and (3) may be provided in electronic format but are not to be treated as valid debit notes or valid credit notes for the purposes of those paragraphs unless the use of such documents in electronic format is accepted by the recipient.

(7) For the purposes of this regulation, an increase or decrease in consideration occurs at the time specified in regulation 24B.”

Amendment of Part 5 of the Value Added Tax Regulations 1995

4. Part 5 of the Value Added Tax Regulations 1995(a) (accounting, payment and records) is amended as follows.

5. In regulation 24 omit the words from ““increase in consideration means” to “interpreted accordingly;”.

6. After regulation 24 insert—

(a) S.I. 1995/2518.

- 24A.**—(1) An increase in consideration is one to which this Part applies if—
- (a) it is an increase in the consideration for a supply made by a taxable person; and
 - (b) the recipient of the supply or another person acting on behalf of, or pursuant to an arrangement with, the recipient pays or becomes liable to pay the amount of the increase to the supplier.
- (2) A decrease in consideration is one to which this Part applies if—
- (a) it is a decrease in the consideration for a supply made by a taxable person; and
 - (b) the supplier pays the amount of the decrease to the recipient of the supply or to any other person entitled to receive the payment.
- (3) Where there is any part payment on account in relation to a decrease in consideration—
- (a) the decrease in consideration shall be treated as one to which this Part applies only to the extent covered by the payment; and
 - (b) each payment on account shall be treated as being made in relation to a separate decrease in consideration.
- (4) Any credit given by the supplier to the recipient of the supply for use as payment for further supplies is not to be treated as a decrease in consideration for the purposes of this Part.

24B.—(1) An increase in consideration occurs when it is agreed by the supplier and the recipient of the supply.

(2) A decrease in consideration occurs when the supplier pays the amount of the decrease to the recipient of the supply or to any other person who is entitled to receive the payment.

24C. For the purposes of regulations 24A and 24B—

- (a) a person who sets off an amount against a corresponding liability of another person shall be regarded as paying or making a payment to that other person; and
- (b) a person who makes a transfer of assets to another person, the value of which is agreed by the supplier and the recipient of a supply to represent the amount by which the consideration for that supply is increased or decreased, shall be regarded as paying or making a payment to that other person.”.

7. In regulation 31(1)—

- (a) at the end of sub-paragraph (h) omit “and”;
- (b) for sub-paragraph (i) substitute—
 - “(i) all debit notes and credit notes or copies of such documents provided or received in accordance with regulation 15C,”.

8.—(1) Regulation 38 is amended as follows.

(2) After regulation 38(1) insert—

“(1ZA) This regulation does not apply to anything done in relation to the attribution of consideration to a supply in accordance with section 19(4) of the Act.”.

(3) In paragraph (3), in the opening words, after “paragraph (3A)” insert “and (3B)”.

(4) After paragraph (3A) insert—

“(3B) In the case of a decrease in consideration, no entry may be made under paragraph (3) or (3A) unless the requirements in regulation 15C with regard to the provision of a credit note, where such requirements are applicable, have been satisfied.”.

(5) In paragraph (4), in the opening words, for “The recipient” substitute “Subject to paragraph (4A), the recipient”.

(6) After paragraph (4) insert—

“(4A) In the case of an increase in consideration, no entry may be made under paragraph (4) unless the recipient of the supply holds the debit note which is required to be provided under regulation 15C(2).”.

(7) In paragraph (5), for “the increase or decrease is given effect in the business accounts of the relevant taxable person” substitute “the increase in consideration or the decrease in consideration occurs”.

(8) At the end of paragraph (7), after “regulations 34 and 35”, insert “except insofar as there is an error arising from a failure to make any entry required by this regulation”.

Date Two of the Commissioners for Her Majesty’s Revenue and Customs
Name
Name

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Amendment Regulations make changes to Part 3 (VAT invoices and other invoicing requirements) and Part 5 (accounting, payment and records) of the Value Added Tax Regulations 1995 (S.I 1995/2518: “the Principal Regulations”).

VAT registered traders are required to account for VAT on the supply of goods and services calculated by reference to the price payable for those supplies. In cases where the price of the supply increases or decreases after the accounting period in which the supply has been made, adjustments must be made under provisions in Part 5 of the Principal Regulations. These Amendment Regulations make changes in relation to such adjustments and introduce new rules in relation to the accounting documents required for that purpose.

Regulation 3 introduces new requirements for the provision of debit notes and credit notes to the recipient of a supply when there are increases or decreases in consideration.

Regulations 5 and 6 replace the definitions of increase and decrease in consideration in regulation 24 of the Principal Regulations with a new regulation 24A. This new regulation describes the increases or decreases in consideration to which the adjustment provisions will apply. A new regulation 24B, making provision for the time at which increases and decreases in consideration are to be treated as occurring, is inserted in the Principal Regulations and provision is also made in a new regulation 24C with regard to transactions that are to be regarded as payments.

Regulation 7 amends regulation 31 of the Principal Regulations to reflect the changes made by regulation 3.

Regulation 8 makes changes to regulation 38 of the Principal Regulations.

Regulation 8(2) makes it clear that regulation 38 does not apply to any attribution of consideration in accordance with section 19(4) of the Act.

Regulation 8(3) to 8(6) introduces new requirements in relation to the provision of credit notes and the holding of debit notes as conditions for the making of adjustments under regulation 38 of the Principal Regulations.

Regulation 8(7) makes amended provision in regulation 38(5) of the Principal Regulations as to the accounting period in which any adjustments must be made.

Regulation 8(8) is amended to make it clear that errors resulting from a failure to make adjustments in accordance with regulation 38 of the Principal Regulations must be corrected in accordance with existing provision for that purpose.