

**2015 No. XX**

**VALUE ADDED TAX**

**The Value Added Tax (Amendment) (No.) Regulations 2015**

*Made* - - - - - \*\*\*

*Laid before the House of Commons* \*\*\*

*Coming into force in accordance with regulation 2*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 25(1) and 26(1), (3) and (4) of the Value Added Tax Act 1994(a), make the following Regulations:

**Citation, commencement and effect**

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. ) Regulations 2015.

2.—(1) Subject to paragraph (2) below, these Regulations come into force on [\*\*\*].

(2) Where [the day before the date in 2(1)] falls within the longer period of a taxable person, the amendments made by these Regulations do not, in relation to that taxable person, have effect until the first day of the next longer period; and “longer period” means the longer period determined under Part XIV of the Value Added Tax Regulations 1995(b).

**Amendment of the Value Added Tax Regulations 1995**

3. The Value Added Tax Regulations 1995 are amended as follows.

4. In paragraph (3) of regulation 101 (input tax and partial exemption: attribution of input tax to taxable supplies)—

(a) at the end of sub-paragraph (d) omit “and”, and

(b) in sub-paragraph (e) after “below” insert “, and (f) supplies made from an establishment situated outside the United Kingdom”.

5. In regulation 101(8) omit sub-paragraph (b) and the preceding “or”.

6. For paragraph (2) of regulation 102 (input tax and partial exemption: use of other methods) substitute—

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(a) 1994 c.23. Section 96(1) of the Act 1994 defines “the Commissioners” to mean “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 Revenue and Customs by section 5(1) 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. Section 26(4) of the Act was amended by section 19 of, and paragraph 2 of Schedule 8 to, the Finance (No. 3) Act 2010 (c.33).

(b) S.I. 1995/2518; relevant amending instruments are S.I. 1996/1250, S.I. 1999/3114, S.I. 2004/3140, S.I. 2005/762, S.I. 2007/768, S.I. 2009/820, S.I. 2010/559.

“(2) Notwithstanding any provision of any method approved or directed to be used under this regulation which purports to have the contrary effect, in calculating the proportion of any input tax on goods or services used or to be used by the taxable person in making both taxable and exempt supplies which is to be treated as attributable to taxable supplies the following shall be excluded:

- (a) the value of any supply of a description falling within regulation 101(3)(a) to (d) whether made within or outside the United Kingdom, and
- (b) supplies made from an establishment situated outside the United Kingdom.”.

**7.** In regulation 103 (input tax and partial exemption: attribution of input tax to foreign and specified supplies)—

- (a) in paragraph (a) after “if made in the United Kingdom” insert “and which are not made from an establishment situated outside the United Kingdom”, and
- (b) in paragraph (b) after “of the Act” insert “and which are not made from an establishment situated outside the United Kingdom”.

*Name*

*Name*

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

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations come into force in accordance with regulation 2 and amend Part XIV (input tax and partial exemption) of the Value Added Tax Regulations 1995 (S.I. 1995/2518).

Council Directive 2006/112/EC (“the Principal VAT Directive”) establishes a common system of value added tax applicable throughout the European Union. Article 173 of the Principal VAT Directive deals with proportional deduction and does not permit supplies made from an establishment situated outside the United Kingdom to be taken into account in calculating the proportion of input tax that a taxable person is entitled to deduct. The amendments made by these Regulations give effect to this.

Regulations 4 and 5 make amendments to regulation 101 (attribution of input tax to taxable supplies). Regulation 101 provides a method by which input tax is provisionally attributed to taxable supplies so as to calculate the proportion of input tax that a taxable person is entitled to deduct in each prescribed accounting period.

Regulation 4 amends paragraph (3) of regulation 101 to make it clear that supplies made from an establishment situated outside the United Kingdom must be excluded in calculating the deductible proportion under sub-paragraph (2)(d) or (g).

Regulation 5 amends paragraph (8) of regulation 101 so that, in calculating the proportion of input tax that a taxable person is entitled to deduct by reference to regulation 101, input tax incurred on goods or services acquired by or supplied to a taxable person may not be attributed to taxable supplies on the basis of their use in making taxable supplies from an establishment situated outside the United Kingdom.

Regulation 6 amends paragraph (2) of regulation 102 (use of other methods) so that supplies made from an establishment situated outside the United Kingdom cannot be taken into account in calculating the proportion of any input tax which is to be treated as attributable to taxable supplies by reference to regulation 102. Regulation 102 permits the Commissioners to approve or direct the use of a method, other than that specified in regulation 101, by which input tax can be attributed to taxable supplies so as to calculate the proportion of input tax that a taxable person is entitled to deduct.

Regulation 7 amends regulation 103 (attribution of input tax to foreign and specified supplies) to make it clear that supplies made from an establishment situated outside the United Kingdom must not be taken into account in attributing input tax to taxable supplies by reference to regulation 103. Regulation 103 provides for the attribution of input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him which are used or to be used in whole or in part to make supplies specified in that regulation for the purpose of calculating the proportion of input tax that a taxable person is entitled to deduct where the input tax has not fallen to be attributed under regulation 101 or a method approved or directed by the Commissioners under regulation 102.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. An Explanatory Memorandum is available alongside these Regulations on the National Archives website <http://www.legislation.gov.uk>.