1 Deposit schemes

(1) VATA 1994 is amended as follows.

(2) In Part 3 (application of Act in particular cases), for sections 55B to 55D substitute—

"55B Deposit schemes: introduction and definitions

(1) Sections 55C to 55I contain provision about the VAT treatment of qualifying deposit schemes.

(2) In those sections and this section—

"deposit" means an amount payable by a person under a deposit scheme on the supply to them of an item or article;

"deposit item or article" means an item or article in respect of which a deposit is payable;

"deposit scheme" means a scheme which is established—

(a) by regulations under Schedule 8 to the Environment Act 2021, or

(b) by regulations under section 84 of the Climate Change (Scotland) Act 2009 (asp 12);

"qualifying", in relation to a deposit scheme, has the meaning given by subsection (3);

"refund" means an amount payable to a person under a deposit scheme on the return by them of the packaging of, or any other part of, a deposit item or article;

"scheme administrator", in relation to a deposit scheme, means—

(a) a person appointed as a scheme administrator of the scheme by virtue of paragraph 4 of Schedule 8 to the Environment Act 2021, or

(b) a person designated as a scheme administrator of the scheme under section 85 of the Climate Change (Scotland) Act 2009.

(3) A deposit scheme is a "qualifying" deposit scheme at any time if, at that time—

(a) the scheme has a scheme administrator, and

(b) the scheme requires that—

(i) amounts equivalent to the deposit in relation to each deposit item or article are paid to the scheme administrator, and

(ii) all refunds are (directly or indirectly) paid by the scheme administrator.

55C Deposit schemes: treatment of deposits and refunds

(1) Subsection (2) applies where—

(a) a deposit is payable in respect of a taxable (but not a zero-rated) supply of goods, and

(b) the deposit scheme under which the deposit is payable is, at the time of the supply, a qualifying deposit scheme.

(2) The deposit is to be disregarded for the purposes of this Act in determining the value of the supply.

(3) An amount received under a qualifying deposit scheme by its scheme administrator in respect of a deposit is not to be regarded as consideration for any supply made by the scheme administrator.

(4) An amount paid under a deposit scheme by its scheme administrator in respect of a refund is not to be regarded as consideration for any supply made to the scheme administrator.

55D Deposit schemes: VAT to be paid by scheme administrator

(1) This section makes provision for the purpose of—

(a) requiring the scheme administrator of a qualifying deposit scheme to pay the VAT that, but for section 55C(2), would have been payable on the supply of deposit items or articles in cases in which a deposit, but no refund, is paid, and

(b) adjusting the VAT payable on the supply of deposit items or articles in cases in which a deposit and a refund are paid, but they are of unequal amounts.

(2) Subsection (3) applies where, in a prescribed accounting period of the scheme administrator of a qualifying deposit scheme—

(a) the total of the amounts the scheme administrator receives under the scheme in respect of deposits, exceeds

(b) the total of the amounts the scheme administrator pays under the scheme in respect of refunds.

(3) VAT is charged on such amount as, with the addition of the VAT chargeable, is equal to the excess.

(4) If, in any prescribed accounting period, the total mentioned in subsection (2)(b) exceeds the total mentioned in subsection (2)(a), the excess may be carried forward and set off against an excess in relation to which subsection (3) applies in a later prescribed accounting period.

(5) The person liable for VAT charged under this section is the scheme administrator.

(6) The rate of VAT for the purposes of the charge under this section is the rate in force under section 2 at the end of the prescribed accounting period.

(7) References in this section to a deposit or a refund do not include a deposit or refund in respect of a deposit item or article the supply of which is zero-rated or exempt.

55E Deposit schemes: regulations

(1) The Commissioners may by regulations make provision about how VAT charged under section 55D is to be accounted for and paid, including in particular provision—
(a) for the making of entries in returns, and the keeping of records;
(b) specifying methods for calculating entries in returns;
(c) specifying methods for determining or estimating the proportion of the amounts paid to or by the scheme administrator under the scheme that are in respect of deposit items or articles the supply of which is zero-rated or exempt;
(d) about the manner in which, and the period within which—
(i) entries are to be made in returns,
(ii) payments are to be made, and
(iii) errors are to be corrected;
(e) conferring power on the Commissioners to make provision for the purposes of paragraphs (a) to (d) by means of a notice published in accordance with the regulations.

(2) Regulations under subsection (1) may make (or enable the Commissioners to make)—
(a) different provision for different purposes or areas;
(b) consequential, supplementary, incidental, transitional, transitory or saving provision.

55F Deposit schemes: liability of scheme administrator to be registered

(1) A person who—
(a) is the scheme administrator of a qualifying deposit scheme on the day the scheme becomes operational, and
(b) on that day is not registered under this Act, and is not otherwise liable to be so registered,
becomes liable to be so registered on that day.

(2) A person who—
(a) on any day becomes the scheme administrator of a qualifying deposit scheme that is operational, and
(b) on that day is not registered under this Act, and is not otherwise liable to be so registered,
becomes liable to be so registered on that day.

(3) A person who—
(a) is the scheme administrator of an operational deposit scheme that on any day becomes qualifying, and
(b) on that day is not registered under this Act, and is not otherwise liable to be so registered,
becomes liable to be so registered on that day.

(4) A person who has become liable to be registered under this section on any day ceases to be so liable on any later day on which—
(a) the person ceases to be a scheme administrator, or
(b) the deposit scheme ceases to be qualifying.

(5) For the purposes of this section a deposit scheme is "operational" on any day if on that day deposits are payable in respect of items or articles supplied under the scheme.

55G Deposit schemes: notification of liability and registration

(1) A person who becomes liable to be registered under section 55F must notify the Commissioners of the liability before the end of the period of 30 days beginning with the day on which they become so liable.

(2) Where the Commissioners become aware that a person has become liable to be registered under section 55F (whether as a result of receiving a notification under subsection (1) or otherwise) they must, unless the person is already registered, register the person with effect from the day on which the person became so liable.

55H Deposit schemes: notification of end of liability

(1) A person who ceases to be liable to be registered under section 55F must notify the Commissioners of that fact before the end of the period of 30 days beginning with the day on which they cease to be so liable.

(2) But the person need not notify the Commissioners if on that day the person would otherwise be liable or entitled to be registered under this Act.

(3) In determining for the purposes of subsection (2) whether a person would be liable or entitled to be registered under this Act at any time, so much of any provision as prevents a person from becoming liable or entitled to be registered when the person is already registered or is so liable under any other provision is to be disregarded.

55I Deposit schemes: cancellation of scheme administrator's registration

(1) The Commissioners must cancel a person's registration if—
(a) the person satisfies them that the person has ceased under section 55F to be liable to be registered, and
(b) the person requests the cancellation.

(2) A cancellation under subsection (1) has effect from—
(a) the day on which the request is made, or
(b) such later day as may be agreed between the Commissioners and the person.

(3) The Commissioners may cancel a person's registration if they are satisfied that the person has ceased under section 55F to be liable to be registered.

(4) A cancellation under subsection (3) has effect from—

(a) the day on which the person ceased to be liable under section 55F, or

(b) such later date as may be agreed between the Commissioners and the person.

(5) The Commissioners may not cancel a person's registration under subsection (1) or (3) with effect from any day unless satisfied that it is not a day on which that person would be liable or entitled to be registered under this Act.

(6) In determining for the purposes of subsection (5) whether a person would be liable or entitled to be registered under this Act at any time, so much of any provision as prevents a person from becoming liable or entitled to be registered when the person is already registered or is so liable under any other provision is to be disregarded."

(3) In section 3 (taxable persons and registration)—

(a) in subsection (2), after "and see also" insert "sections 55F and 55G, and";

(b) in subsection (3)—

(i) for "those Schedules and Part 8 and 9 of Schedule 9ZA" substitute "the provisions mentioned in subsection (2)";

(ii) for "Schedules or those Parts" substitute "provisions";

(c) in subsection (4), for "Schedule" substitute "provision".

(4) In section 25 (payment by reference to accounting periods etc), in subsection (1)—

(a) in paragraph (a), at the end insert "and";

(b) after that paragraph insert—

"(aa) in respect of any liability under section 55D (deposit schemes: VAT to be paid by scheme administrator),".