

2010 No. 2240

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 2) Regulations 2010

Made - - - - *9th September 2010*

Laid before the House of Commons *14th September 2010*

Coming into force - - *1st November 2010*

The Commissioners for Her Majesty's Revenue and Customs(a), in exercise of the powers conferred by sections 26B(1) and (9)(b) and 58 of, and paragraph 2(1)(c) and (7) of Schedule 11 to, the Value Added Tax Act 1994(d), make the following Regulations:

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. 2) Regulations 2010 and shall come into force on the 1st of November 2010.
2. The Value Added Tax Regulations 1995(e) are amended as follows.
- 3.—(1) In the title to regulation 38A after “goods” insert “or services”.
(2) In regulation 55C(6) after “goods” (in each place) insert “or services”.
(3) In regulation 58(2)(g) after “goods” insert “or services”.

Melanie Dawes
Bernadette Kenny

9th September 2010 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1 November 2010, amend the Value Added Tax Regulations 1995 (“the Principal Regulations”).

The amendments to the Principle Regulations are made in consequence of an amendment to Section 55A of the Value Added Tax Act 1994 (“the Act”) by section 50 of the Finance Act 2010 (c. 13).

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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) Section 26B was inserted by section 23(1) of the Finance Act 2002 (c. 23).
 - (c) Sub-paragraph 2(1) was amended by sections 24(1)(b)(ii) and 141 and Schedule 40, part 2(2) of the Finance Act 2002 (c. 23).
 - (d) 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.
 - (e) S.I. 1995/2518, relevant amending instruments are S.I. 1997/1614, 2002/1142, 2007/768 and 1418.

Section 55A of the Act provides that VAT due on specified taxable (but not zero-rated) supplies must be accounted for and paid by the VAT registered recipient of those supplies rather than their supplier. A charge to tax which is imposed on the recipient of a supply is referred to as a reverse charge. The supplies which are subject to the reverse charge pursuant to section 55A are specified in a Treasury order.

Section 55A was amended by section 50 of the Finance Act 2010. Prior to the amendment the reverse charge under section 55A had only been applicable to supplies of goods. Following the amendment it can also be applied to supplies of services.

Article 3 of these Regulations amends the Principal Regulations as follows.

Regulation 38A of the Principal Regulations makes provision for the adjustment to a taxpayer's VAT account where, because of an increase or decrease in the consideration for a supply, it becomes subject to or ceases to be subject to a reverse charge under section 55A. The title to regulation 38A is amended to refer to services as well as goods in accordance with the extension of the application of section 55A to services.

Regulation 55C(6) provides that supplies of goods which are subject to a reverse charge under section 55A are neither relevant supplies nor relevant purchases for the purposes of the flat-rate scheme. That paragraph is amended to apply to supplies of services in the same way as it applies to supplies of goods.

Regulation 58(2)(g) provides that the cash accounting scheme shall not apply to supplies of goods which are subject to a reverse charge. That sub-paragraph is amended so that the scheme also excludes supplies of services which are subject to a reverse charge.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.