STATUTORY INSTRUMENTS

2018 No. 261

VALUE ADDED TAX

The Value Added Tax (Amendment) Regulations 2018

Made - - - -	*27th February 2018*
Laid before the House of Commons - - - -	*28th February 2018*
Coming into force - -	*1st April 2019*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 25(1) of, and paragraphs 2(1), (10)(b), (11), (11A) and 6(1), (5), (6), (7), (8), (10)(a) and (b) and (11)(a) and (b) of Schedule 11 to, the Value Added Tax Act 1994(**1**), section 132(1)(b), (3)(b) and (g) of the Finance Act 1999(**2**), section 135(1), (2)(a), (d), (e), (f), and (g), (3)(a), (b) and (c), (4)(a) and (7)(a) and (b) of the Finance Act 2002(**3**) and section 62(7) of the Finance (No. 2) Act 2017(**4**) make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Value Added Tax (Amendment) Regulations 2018 and come into force on 1st April 2019.

(2) The amendments made by these regulations have effect from 1st April 2019 where a taxpayer has a prescribed accounting period which begins on that date and otherwise from the first day of a taxpayer's first prescribed accounting period beginning after the 1st April 2019.

(**1**) 1994 c.23 ("the Act"). Section 96(1) of the Act defines "the Commissioners" as meaning "the Commissioner 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. Paragraph 2 of Schedule 11 of the Act was amended by paragraph 12(2) of Schedule 29 to the Finance Act 2012 (2012 c.14) and section 62(2) of the Finance (No. 2) Act 2017 (c.32). Paragraph 6 of Schedule 11 was amended by section 62(3) of the Finance (No. 2) Act 2017.

(**2**) 1999 c.16; section 132 was amended by paragraph 156 of Schedule 17 to the Communications Act 2003 (c.21) and S.I.2011/1043.

(**3**) 2002 c.23; section 135 was amended by paragraph 95 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c.11) with effect from 18 April 2005 by virtue of S.I. 2005/1126 and by section 93(2) and (3)of the Finance Act 2007 (c.11).

(**4**) 2017 c.32.

Amendment of the Value Added Tax Regulations 1995

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

3. In regulation 24 before "increase in consideration" insert—

" "API platform" means the application programming interface that enables electronic communication with HMRC, as specified by the Commissioners in a specific or general direction;

"functional compatible software" means a software program or set of compatible software programs the functions of which include—

(a) recording and preserving electronic records in an electronic form;

(b) providing information to HMRC from the electronic records and returns in an electronic form and by using the API platform; and

(c) receiving information from HMRC using the API platform in relation to a person's compliance with obligations under these Regulations which are required to be met by use of the software;".

4. In regulation 25A—

(a) before paragraph (1) insert—

"(A1) Where a person makes a return required by regulation 25 by means of electronic communications using functional compatible software, such a method of making a return shall be referred to in this Part as a "compatible software return system"."";

(b) in paragraph (1) after "electronic communications" insert "other than functional compatible software";

(c) after paragraph (2) insert—

"(2A) A person who is subject to the requirements of regulation 32A, including by virtue of an election in accordance with regulation 32C, must make a return required by regulation 25 using a compatible software return system.";

(d) in paragraph (3) for "paragraph (6) below" substitute "paragraphs (2A) above and (6) below";

(e) in paragraphs (4), (8), (10)(b), (11), (12)(a) to (c), (13), (14), (18)(a), and (20)(b) after "electronic return system" insert in each case "or a compatible software return system";

(f) in paragraph (15) before "(3)" insert "(2A) or";

(g) in paragraph 20(a) after "electronic return system," insert ", a compatible software return system".

5. After regulation 31(1)(k) insert—

"(l) where the taxable person is subject to the requirements of regulation 32A, the electronic account required by that regulation.".

6. After regulation 31 insert—

"**Preservation of records**

31AA.—(1) Subject to paragraph (2) the electronic account required to be kept pursuant to regulation 31(1)(l) must be preserved using functional compatible software.

(**5**) S.I 1995/2518; relevant amending instruments are S.I.1996/1250, 1999/3114, 2000/258, 2003/1485, 2003/2096, 2003/3220, 2004/1675, 2007/1418, 2009/2978, 2010/559, 2012/33, 2012/1899 and 2014/1497.

(2) The obligation under paragraph (1) does not apply to a person to whom the requirements of regulation 32A have ceased to apply.

(3) Subject to paragraph (1) the duty to preserve records required to be kept pursuant to regulations 31 and 31A may be discharged by—

(a) preserving them in any form or by any means; or

(b) preserving the information in them by any means,

subject to any conditions or exceptions specified in writing by the Commissioners.

(4) The functional compatible software must take a form approved by the Commissioners in a specific or general direction.

(5) A direction under paragraph (4) may also specify the circumstances in which functional compatible software may be used or not used.".

7. After regulation 32 insert—

"**Recording and keeping of information in electronic form**

32A.—(1) Subject to regulation 32B a taxable person shall keep and maintain the information specified in paragraphs (2) and (3) in an electronic form ("the electronic account").

(2) The information specified for the purposes of paragraph (1) is—

(a) the name of the taxable person;

(b) the address of the taxable person's principal place of business;

(c) the taxable person's VAT registration number; and

(d) any VAT accounting schemes used by the taxable person.

(3) Subject to paragraph (4) the information specified for the purposes of paragraph (1) for each accounting period is—

(a) subject to sub-paragraph (c), for each supply made within the period—

(i) the time of supply,

(ii) the value of the supply, and

(iii) the rate of VAT charged;

(b) subject to sub-paragraph (c), for each supply received within the period—

(i) the time of supply,

(ii) the value of the supply, and

(iii) the total amount of input tax for which credit is allowable under section 26 of the Act(**6**);

(c) where more than one supply is recorded on a tax invoice and those supplies are either—

(i) supplies made which are required to be accounted for in respect of the same prescribed accounting period and are subject to the same rate of VAT, or

(ii) supplies received for which credit is allowable in the same prescribed accounting period,

they may be treated as a single supply for the purposes of either sub-paragraph (a) or (b), whichever is relevant;

(**6**) "the Act" is defined for the purposes of the Value Added Tax Regulations 1995 (S.I. 1995/251) by article 2(1) of those Regulations as "the Value Added Tax Act 1994"