

No. 13**THE VALUE ADDED TAX ORDINANCE 2001**

(Ordinance 10 of 2001 as amended by Ordinances 16 of 2002 and 36 of 2002, Public Instrument 18 of 2003 and Ordinances 38 of 2003, 25 of 2004 and 41 of 2004)

**REGULATIONS MADE BY THE ADMINISTRATOR
UNDER SECTION 42A**

In exercise of the powers vested in him by section 42A of the Value Added Tax Ordinance 2001^(a) as inserted by section 38 of the Value Added Tax (Amendment) (No. 2) Ordinance 2004^(b), the Administrator hereby makes the following Regulations:—

1. These Regulations may be cited as the Value Added Tax (Services Supplied Electronically) Regulations 2006.

2. In these Regulations, unless the context otherwise requires —

“electronically supplied services” means services such as are referred to in paragraph 8B of the Third Schedule to the Ordinance^(c) and cognate expressions shall be construed accordingly;

“electronic tax return” means a return submitted electronically and includes any information necessary for determining the amount of VAT due in each member State and submitted electronically;

“member State of consumption” means the member State in which is the recipient of electronically supplied services, being a person who does not receive the services for the purposes of any business carried on by him from a non-established trader;

“member State of record” means the member State to which a non-established trader declares that he is providing electronically supplied services to persons in the member States;

“non-established trader” means a person who has neither his principal place of business nor a fixed place of business in the Areas or in any member State and who is not required to be registered for VAT purposes in the Areas or under any provisions of the law relating to VAT of any member State;

“reference number” means the reference number allocated by the Commissioner under these Regulations to a non-established trader for the purposes of the scheme;

“scheme” means the scheme established under these Regulations for accounting for VAT chargeable in respect of services supplied electronically;

“the Ordinance” means the Value Added Tax Ordinance 2001.

(a) Ordinance 10/2001.

(b) Ordinance 41/2004.

(c) Paragraph 8B was inserted by section 53(c) of Ordinance 41/2004.

Obligations of a non-established trader

3.—(1) A non-established trader who —

- (a) is not registered under any Part of Schedule 1 to the Ordinance or under any of the provisions of the law on VAT of any member State; and
- (b) is supplying electronic services to a person who is not taxable but who is established or has his place of residence or his habitual residence in a member State,

may elect to account for VAT chargeable in respect of services he supplies electronically in accordance with the scheme established under these Regulations.

(2) A non-established trader's admission to the scheme has effect from the day that he exercises his election or from such earlier date as may be agreed between the Commissioner and that trader.

(3) A non-established trader making an election under this regulation shall give the Commissioner by electronic means—

- (a) his full name;
- (b) his e-mail address;
- (c) all his electronic addresses including all websites;
- (d) a declaration that he is not registered for VAT purposes in any member State.

(4) A non-established trader who is admitted to the scheme shall notify the Commissioner by electronic means of any change in any of the particulars he has given under paragraph (3) above.

Record of non-established traders

4. The Commissioner shall maintain a record in which he shall enter the particulars given to him by a non-established trader pursuant to regulation 3 above and the Commissioner shall notify the non-established trader by electronic means of the reference number allocated to him for the purposes of the scheme.

Obligation of a non-established trader to notify changes in the circumstances of his business

5. A non-established trader who has made an election under these Regulations shall notify the Commissioner by electronic means and without delay—

- (a) when he commences providing electronically supplied services;
- (b) when he ceases providing electronically supplied services; and
- (c) any changes in the nature of the services that he provides as a result of which he ceases to be entitled to use the scheme.

Cancellation of admission to the scheme

6.—(1) The Commissioner shall cancel a person's admission to the scheme if—

- (a) the person concerned notifies the Commissioner that he has ceased providing electronically supplied services; or

- (b) it appears to the Commissioner that the person concerned has ceased providing electronically supplied services; or
- (c) the person concerned is not entitled to, or has ceased to be entitled to, use the scheme; or
- (d) the person concerned repeatedly fails to observe the conditions applicable to the scheme.

(2) The cancellation of a person's admission to the scheme has effect—

- (a) in a case to which paragraph (1)(a) above applies, from the day that the trader concerned gives his notification;
- (b) in any other case, from such date as the Commissioner may direct.

Submission of tax returns electronically and payment of VAT

7.—(1) A non-established trader who has been admitted to the scheme must submit a tax return (whether or not he has made any electronically supplied services) using such electronic means as the Commissioner may direct, and he shall at the same time pay the VAT on electronically supplied services to persons who are not taxable but who are established or have their place of residence or their habitual residence in the Areas or a member State for purposes other than for the purposes of any business which may be carried on by them.

(2) A non-established trader must submit an electronic tax return under paragraph (1) above for each quarter not later than 20 days after the end of the quarter to which the return relates.

(3) An electronic tax return under this regulation must contain the following particulars in respect of the quarter to which it relates —

- (a) the reference number of the person submitting the return;
- (b) the aggregate value of the electronically supplied services (excluding VAT) for each member State of consumption;
- (c) the total amount of VAT based on those aggregate values;
- (d) the VAT rate applicable in each member State of consumption; and
- (e) the total amount of VAT due for the quarter concerned.

(4) All amounts included in an electronic tax return submitted under this regulation must be expressed in euro. Where the consideration for any electronically supplied services is in some other currency, upon the completion of the tax return the exchange rate applicable on the last day of the quarter concerned shall be used for conversion purposes. The conversion shall be made in accordance with the exchange rates published by the European Central Bank for that day, or if there are no exchange rates published on that day, then the exchange rates published in the first publication after that day shall be used.

Claiming of input tax

8.—(1) A non-established trader admitted to the scheme shall be entitled to repayments under Part XIV of the Value Added Tax (General) Regulations 2002 (repayments to traders in a third country) whether or not the country where he is provides reciprocal arrangements for repayments to taxable persons established in the Areas or the Republic.

(2) The Value Added Tax (General) Regulations 2002 apply to a non-established trader admitted to the scheme—

- (a) whether the electronically supplied services which he provides are to persons in the Areas or to persons in member States; but
- (b) with the exception of any regulations made under section 20(7) of the Ordinance^(d) (exclusion from credit of VAT charged on certain supplies, acquisitions and importations).

Records

- 9.** A non-established trader who is admitted to the scheme must —
- (a) keep a record of any supply that he makes for which he has to account for VAT under the scheme in sufficient detail as to enable the proper officer to verify the accuracy of any tax return submitted pursuant to regulation 7 above;
 - (b) if requested, make available to the Commissioner by electronic means any such record as is referred to in paragraph (a) above;
 - (c) make available to the VAT authorities of any member State of consumption, by electronic means, details such as are referred to in paragraph (a) above;
 - (d) keep any record such as referred to in paragraph (a) above for a period of not less than ten years from the end of the year in which the supply to which the record relates was made.

Relief from the obligations of section 37 of the Ordinance

10. A non-established trader admitted to the scheme shall not be required to appoint a VAT representative under section 37 of the Ordinance^(e).

Exchange of information and appropriation of amounts

- 11.** The Commissioner—
- (a) shall exchange information with the VAT authorities of other member States in order to verify the accuracy of returns submitted and records kept under these Regulations;
 - (b) shall account for the VAT due to any member State as shown in any electronic tax return submitted under regulation 7 above.

Dated this 19th day of January 2006.

By the Administrator's Command,
P. D. Draycott,
Chief Officer,
Sovereign Base Areas.

(128/210/11)

^(d) Subsection (7) of section 20 is amended by section 20(b) of Ordinance 41/2004.

^(e) Section 37 is amended by section 36 of Ordinance 41/2004.