

Goods in transit — miscellaneous provisions. VATA s. 15B(1) to (5A) and (7)

55.—(1)(a) In this section—

“date of accession” means—

(i) 1 January 1995 in respect of the Republic of Austria, the Republic of Finland (excluding the Åland Islands) and the Kingdom of Sweden,

(ii) 1 May 2004 in respect of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic,

(iii) 1 January 2007 in respect of the Republic of Bulgaria and Romania;

“enlarged Community” means the Community after the accession of the new Member States;

“new Member State” means any state referred to in the definition of “date of accession” with effect from the relevant date.

(b) A word or expression that is used in this section and is also used in Council Directive No. 94/76/EC of 22 December 1994³, has, unless the contrary intention appears, the meaning in this section that it has in that Council Directive.

(2) Where—

(a) goods from a new Member State were imported into the State before the date of accession,

(b) the tax referred to in section 3 (b) was not chargeable because the goods were, at the time of such importation, placed—

(i) under an arrangement for temporary importation with total exemption from customs duty, or

(ii) under one of the arrangements referred to in Article 156(1) of the VAT Directive,

and

(c) the goods are still subject to such an arrangement on the date of accession,

then the provisions in force at the time the goods were placed under that arrangement shall continue to apply until the goods leave that arrangement on or after the date of accession.

(3)(a) In this subsection “common transit procedure” means the procedure approved by the Council of the

European Communities by Council Decision No. 87/415/EEC of 15 June 1987⁴, approving the Convention done at Interlaken on the 20th day of May, 1987, between the European Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden, and the Swiss Confederation on a common transit procedure, the text of which is attached to that Council Decision.

(b) Where—

(i) goods were placed under the common transit procedure or under another customs transit procedure in a new Member State before the date of accession, and

(ii) those goods have not left the procedure concerned before the date of accession,

then the provisions in force at the time the goods were placed under that procedure shall continue to apply until the goods leave that procedure on or after the date of accession.

(4) Where goods were in free circulation in a new Member State prior to entry into the State, an importation into the State shall be deemed to occur in the following cases:

(a) the removal (including irregular removal) within the State of the goods referred to in subsection (2) from the arrangement referred to in subsection (2)(b)(i);

(b) the removal (including irregular removal) within the State of the goods referred to in subsection (2) from the arrangement referred to in subsection (2)(b)(ii);

(c) the termination within the State of any of the procedures referred to in subsection (3).

(5) An importation into the State shall be deemed to occur when goods, which were supplied within a new Member State before the date of accession, and which were not chargeable to a value-added tax in that new Member State, because of their exportation from that new Member State, are used in the State on or after the date of accession, and have not been imported before that date.

(6) The tax referred to in section 3 (b) shall not be chargeable where—

(a) the imported goods referred to in subsections (4) and (5) are dispatched or transported outside the enlarged Community,

(b) the imported goods referred to in subsection (4)(a) are other than means of transport and are being returned to the new Member State from which they were exported and to the person who exported them, or

(c) the imported goods referred to in subsection (4)(a) are means of transport which were acquired in or imported into a new Member State before the date of accession in accordance with the general conditions of taxation in force on the domestic market of that new Member State and which have not been subject by reason of their exportation to any exemption from or refund of a value-added tax in that new Member State.

(7) Subsection (6)(c) shall be deemed to be complied with where it is shown to the satisfaction of the

Revenue Commissioners that—

(a) the date of the first use of the means of transport was before 1 January 1987 in the case of means of transport entering the State from the Republic of Austria, the Republic of Finland (excluding the Åland Islands) or the Kingdom of Sweden,

(b) the date of the first use of the means of transport was before 1 May 1996 in the case of means of transport entering the State from the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia or the Slovak Republic,

(c) the date of the first use of the means of transport was before 1 January 1999 in the case of means of transport entering the State from the Republic of Bulgaria or Romania, or

(d) the tax due by reason of the importation does not exceed €130.

3 OJ No. L365, 31.12.1994, p.53 4 OJ No. L 226, 13.8.87, p. 1