

89.—(1) In this section—

“auctioneer” means an accountable person who, in the course or furtherance of business, acting on behalf of another person pursuant to a contract under which commission is payable on purchase or sale, offers tangible movable goods for sale by public auction with a view to handing them over to the highest bidder;

“auctioneer’s margin” means an amount which is equal to the difference between the total amount, including any taxes, commissions, costs and charges whatsoever, payable by the purchaser to the auctioneer in respect of the auction of auction scheme goods and the amount payable by the auctioneer to the principal in respect of the supply of those goods and shall be deemed to be inclusive of tax;

“auction scheme” means the special arrangements for the taxation of supplies of auction scheme goods;

“auction scheme goods” means any works of art, collectors’ items, antiques or second-hand goods sold by an auctioneer at a public auction while acting on behalf of a principal who is—

(a) a person who was not entitled to deduct, under Chapter 1 of Part 8, any tax in respect of that person’s purchase, intra-Community acquisition or importation of those goods where that person is neither—

(i) a person referred to in paragraph (d), nor

(ii) an accountable person who acquired those goods from—

(I) an auctioneer who applied the auction scheme to the supply of those goods to that accountable person, or

(II) a taxable dealer who applied the margin scheme to the supply of those goods to that accountable person,

(b) an insurer to whom section 20 (3) applies—

(i) who took possession of those goods in connection with the settlement of a claim under a policy of insurance, and

(ii) whose disposal of the goods is deemed not to be a supply of the goods as provided by section 20 (3),

(c) a person in another Member State who was not entitled to deduct, under the provisions implementing Articles 167, 173, 176 and 177 of the VAT Directive, in that Member State, any value-added tax referred to in that Directive in respect of that person’s purchase, intra-Community acquisition or importation of those goods, or

(d) a taxable dealer who applied the margin scheme to the supply of those goods or applied the provisions implementing Articles 4 and 35, first subparagraph of Article 139(3) and Articles 311 to 325 and 333 to 340 of the VAT Directive, in another Member State to the supply of those goods;

“principal” means the person on whose behalf an auctioneer auctions goods;

“purchaser” means the person to whom an auctioneer supplies auction scheme goods.

(2) Subject to and in accordance with this section, an auctioneer shall apply the auction scheme to any supply of auction scheme goods.

(3) The amount on which tax is chargeable in accordance with section 3 (a) or (c) on a supply by an auctioneer of auction scheme goods is, notwithstanding Chapter 1 of Part 5, the auctioneer’s margin less the amount of tax included in that margin.

(4) Where auction scheme goods are auctioned, the auctioneer shall issue, subject to such conditions (if any) as may be specified in regulations, to both the principal and the purchaser, invoices or documents in lieu thereof setting out the relevant details in respect of the supply of the auction scheme goods.

(5) Notwithstanding Chapter 2 of Part 9, an auctioneer shall not, in relation to any supply to which the auction scheme has been applied, indicate separately the amount of tax chargeable in respect of the supply on any invoice or other document in lieu thereof issued in accordance with that Chapter.

(6) Where auction scheme goods are auctioned by an auctioneer on behalf of a principal who is an accountable person—

(a) the invoice or document in lieu thereof issued to the principal in accordance with subsection (4) shall be deemed to be an invoice for the purposes of Chapter 2 of Part 9, and

(b) that principal shall be deemed to have issued such invoice.

(7) Where the auction scheme is applied to a supply of goods dispatched or transported from the State to a person registered for value-added tax in another Member State, then, notwithstanding paragraph 1(1) of Schedule 2, section 46 (1)(b) shall not apply unless such goods are of a kind specified elsewhere in that Schedule.

(8) Notwithstanding section 30, where the auction scheme is applied to a supply of goods dispatched or transported, the place of supply of those goods shall be deemed to be the place where the dispatch or transportation begins.

(9) Where an auctioneer supplies auction scheme goods by public auction, the principal shall be deemed to have made a supply of the auction scheme goods in question to the auctioneer when that auctioneer sells those goods at a public auction.

(10) Notwithstanding paragraph 12 of Schedule 1, where an accountable person acquires goods to which the

auction scheme has been applied and the person subsequently supplies those goods, that paragraph shall not apply to that supply unless the goods consist of—

(a) motor vehicles within the meaning of section 60 (1) which that person acquired other than—

(i) as stock-in-trade,

(ii) for the purposes of a business which consists in whole or in part of the hiring of motor vehicles,  
or

(iii) for use, in a driving school business, for giving driving instruction,

or

(b) goods used by that person solely in the course of an exempted activity.