

Investment gold. VATA s. 6A

90.—(1)(a) In this section—

“intermediary” means a person who intervenes for another person in a supply of investment gold while acting in the name and for the account of that other person;

“investment gold” means—

(i) gold in the form of—

(I) a bar, or

(II) a wafer,

of a weight accepted by a bullion market and of a purity equal to or greater than 995 parts per 1,000 parts, and

(ii) gold coins which—

(I) are of a purity equal to or greater than 900 parts per 1,000 parts,

(II) are minted after 1800,

(III) are or have been legal tender in their country of origin, and

(IV) are normally sold at a price which does not exceed the open market value of the gold contained in the coins by more than 80 per cent.

(b) For the purposes of the definition of “investment gold” in paragraph (a), gold coins which are listed in the “C” series of the Official Journal of the European Communities as fulfilling the criteria referred to in that definition in respect of gold coins shall be deemed to fulfil those criteria for the whole year for which the list is published.

(2) This section shall apply to—

(a) investment gold, including investment gold which is represented by securities or represented by certificates for allocated or unallocated gold or traded on gold accounts and including, in particular, gold loans and swaps, involving a right of ownership or a claim in respect of investment gold, and

(b) transactions concerning investment gold involving futures and forward contracts leading to a transfer of a right of ownership or a claim in respect of investment gold.

(3) Notwithstanding section 52 (1), a person who produces investment gold or transforms any gold into investment gold may, in accordance with conditions set out in regulations, waive the person's right to exemption from tax on a supply of investment gold to another person who is engaged in the supply of goods and services in the course or furtherance of business.

(4) Where a person waives, in accordance with subsection (3), the person's right to exemption from tax in respect of a supply of investment gold, an intermediary who supplies services in respect of that supply of investment gold may, in accordance with conditions set out in regulations, waive the intermediary's right to exemption from tax in respect of those services.

(5)(a) Where a person waives, in accordance with subsection (3), the person's right to exemption from tax in respect of a supply of investment gold, then, for the purposes of this Act—

(i) the person to whom the supply of investment gold is made shall, in relation thereto—

(I) be an accountable person, and

(II) be liable to pay the tax chargeable on that supply as if such accountable person had made that supply of investment gold for consideration in the course or furtherance of business,

and

(ii) the person who waived the right to exemption in respect of that supply shall not be liable to pay that tax.

(b) Where a person is liable for tax in accordance with paragraph (a) in respect of a supply of investment gold, the person shall, notwithstanding Chapter 1 of Part 8, be entitled, in computing the amount of tax payable by that person in respect of the taxable period in which that liability to tax arises, to deduct the tax for which he or she is liable on that supply if his or her subsequent supply of that investment gold is exempt from tax.

(6)(a) An accountable person may, in computing the amount of tax payable by the accountable person in respect of any taxable period and notwithstanding Chapter 1 of Part 8, deduct—

(i) the tax charged to the accountable person during that period by other accountable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of supplies of gold to such person,

(ii) the tax chargeable during that period, being tax for which the accountable person is liable in respect of intra-Community acquisitions of gold, and

(iii) the tax paid by the accountable person, or deferred, as established from the relevant customs documents kept by him or her in accordance with section 84 (3) in respect of gold imported by him or her in that period,

where that gold is subsequently transformed into investment gold and the accountable person's subsequent

supply of that investment gold is exempt from tax.

(b) A person may claim, in accordance with regulations, a refund of—

(i) the tax charged to the person on the purchase of gold (other than investment gold) by him or her,

(ii) the tax chargeable to the person on the intra-Community acquisition of gold (other than investment gold) by him or her, and

(iii) the tax paid or deferred on the importation by the person of gold (other than investment gold),

where that gold is subsequently transformed into investment gold and that person's subsequent supply of that investment gold is exempt from tax.

(7)(a) An accountable person may, in computing the amount of tax payable by the accountable person in respect of a taxable period and notwithstanding Chapter 1 of Part 8, deduct the tax charged to that accountable person during that period by other accountable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of the supply to the first-mentioned accountable person of services consisting of a change of form, weight or purity of gold where that accountable person's subsequent supply of that gold is exempt from tax.

(b) A person may claim, in accordance with regulations, a refund of the tax charged to the person in respect of the supply to him or her of services consisting of a change of form, weight or purity of gold where his or her subsequent supply of that gold is exempt from tax.

(8)(a) An accountable person who produces investment gold or transforms any gold into investment gold may, in computing the amount of tax payable by the accountable person in respect of a taxable period and notwithstanding Chapter 1 of Part 8, deduct—

(i) the tax charged to that accountable person during that period by other accountable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of supplies of goods or services to the first-mentioned accountable person,

(ii) the tax chargeable during that period, being tax for which that accountable person is liable in respect of intra-Community acquisitions of goods, and

(iii) the tax paid by that accountable person, or deferred, as established from the relevant customs documents kept by him or her in accordance with section 84 (3) in respect of goods imported by him or her in that period,

where those goods or services are linked to the production or transformation of that gold and that accountable person's subsequent supply of that investment gold is exempt from tax.

(b) A person who produces investment gold or transforms any gold into investment gold may claim, in accordance with regulations, a refund of—

- (i) the tax charged to the person on the purchase by him or her of goods or services,
- (ii) the tax chargeable to the person on the intra-Community acquisition of goods by him or her, and
- (iii) the tax paid or deferred by the person on the importation of goods by him or her,

where those goods or services are linked to the production or transformation of that gold and that person's subsequent supply of that gold is exempt from tax.

(9) Every trader in investment gold shall—

(a) establish the identity of any person to whom that trader supplies investment gold when the total consideration which the trader is entitled to receive in respect of such supply, or a series of such supplies which are or appear to be linked, amounts to at least €15,000, and

(b) retain a copy of all documents used to identify such person to whom the investment gold is so supplied as if they were records to be kept in accordance with section 85 (3).