

VAT change of intention (Lecture B1415 – 16.51 minutes)

Input tax is deductible based on the taxpayer's intention. So if they intend to make a taxable supply they can recover the input VAT in the quarter of spend. If their intention changes up to the date of first use, input tax adjustments will be needed under SI 1995/2518 Regulation 108 or 109.

The provisions of Regulations 108 and 109 apply if your intention changes within six years of the start of the quarter in which the VAT is initially incurred.

If the intention changes from taxable to exempt (or residual), Reg 108 will apply and the input tax originally recovered will be clawed back via a negative entry in Box 4 of the VAT return in which the intention changes. The same will apply if the original intent was mixed (so residual recovery) and the first use is exempt.

Regulation 109 is the mirror opposite to Regulation 108 and will result in a payback to the taxpayer where their intention changes from exempt to taxable (or residual) or from residual to taxable. The taxpayer simply adjusts their Box 4 in the quarter their intention changes.

Regulation 108 is often in point when professional fees are being incurred to secure planning permission on vacant land. Input tax is deductible if you have taxable intent BUT will be clawed back under Regulation 108 if that intention is not fulfilled.

Contributed by Dean Wootten