



**HM CUSTOMS AND EXCISE**  
<http://www.hmce.gov.uk>

## **Notice 701/21**

### **Gold**

**March 2002**

**This notice cancels and replaces Notice 701/21 (February 2000). Details of any changes to the previous version can be found in paragraph 1.1 of this notice.**

#### **Further help and advice**

If you need general advice or more copies of Customs and Excise notices, please ring the **National Advice Service** on **0845 010 9000**. You can call between **8.00 am and 8.00 pm, Monday to Friday**.

If you have **hearing difficulties**, please ring the **Textphone** service on **0845 000 0200**.

If you would like to speak to someone in **Welsh**, please ring **0845 010 0300**, between **8.00 am and 6.00 pm, Monday to Friday**.

**All calls are charged at the local rate within the UK. Charges may differ for mobile phones.**

#### **Other notices on this or related subjects:**

700 The VAT guide

700/1 Should I be registered for VAT

701/9 Derivatives and terminal markets

701/21A Investment gold coins

702 Imports

703 Exports and removals of goods from the United Kingdom

704 VAT retail exports

706 Partial exemption

718 Margin schemes for second-hand goods, works of art, antiques and collectors' items

725 The single market

741 Place of supply of services

## Contents

<b>1.</b>	<b>Gold: an overview of the VAT treatment</b> .....	<b>4</b>
1.1	What is this notice about? .....	4
<b>2.</b>	<b>Exemption for investment gold</b> .....	<b>5</b>
2.1	What is investment gold? .....	5
2.2	Exemption.....	5
<b>3.</b>	<b>The need to notify exempt supplies of investment gold</b> .....	<b>6</b>
3.1	When and how do I have to notify? .....	6
3.2	Format for notification .....	7
<b>4.</b>	<b>Opting to tax investment gold</b> .....	<b>8</b>
4.1	Why should I opt to tax? .....	8
4.2	When may I opt to tax?.....	8
4.3	What if I produce or transform gold into investment gold? .....	8
4.4	What if I supply gold for industrial purposes?.....	8
4.5	What if I act as an agent?.....	8
4.6	Do I need to alter my invoices? .....	8
4.7	Accounting for opted transactions .....	8
<b>5.</b>	<b>Reclaiming input tax</b> .....	<b>9</b>
5.1	When can I reclaim input tax? .....	9
5.2	Reclaiming input tax directly attributable to purchases of gold .....	9
5.3	Reclaiming input tax on directly attributable overheads .....	9
5.4	What if the input tax covers both exempt and taxable supplies? .....	9
<b>6.</b>	<b>Invoicing requirements for trading in exempt investment gold</b> .....	<b>11</b>
6.1	Basic information about requirements .....	11
6.2	When do I need to issue an invoice for sales of exempt investment gold? .....	11
6.3	Do I need to raise an invoice if I buy investment gold from a person who does not trade in investment gold? .....	11
6.4	What must I show on the invoice for sales of exempt investment gold?.....	11
6.5	What must I show on an invoice when I charge VAT? .....	12
6.6	What if the invoice is for both taxable and exempt gold? .....	12
<b>7.</b>	<b>Records to be kept</b> .....	<b>13</b>
7.1	Records to be kept for gold delivered or taken away by your customer .....	13
7.2	Banks and other financial service businesses.....	14
7.3	Auctioneers and other agents of investment gold .....	14
7.4	Internet and mail order sales .....	15
7.5	Sales by VAT registered businesses.....	15
7.6	Sales to VAT registered businesses .....	15
7.7	How long must I keep my records? .....	15
<b>8.</b>	<b>Imports and exports of investment gold</b> .....	<b>16</b>
8.1	Imports and acquisitions .....	16
8.2	Exports and despatches .....	16
8.3	EC sales lists (ESLs) and Intrastat .....	16
<b>9.</b>	<b>Penalties</b> .....	<b>17</b>
9.1	Why are there penalties?.....	17
9.2	When might I be liable to a penalty? .....	17
9.3	Is there a time limit for assessing a penalty? .....	17
9.4	What is the penalty? .....	17
9.5	Best judgement.....	17
9.6	Reasonable excuse .....	17
9.7	Mitigation .....	17
9.8	Right of appeal .....	18
<b>10.</b>	<b>Transactions in gold, other than investment gold</b> .....	<b>19</b>
10.1	What to do first.....	19
10.2	Is the supply within the scope of UK VAT? .....	19

10.3	Zero-rating.....	20
10.4	Supplies between central banks and members of the London Bullion Market Association.....	20
10.5	Supplies of gold on the London Bullion Market.....	20
10.6	Items of numismatic interest.....	20
10.7	Imports and acquisitions.....	20
10.8	Exports and despatches.....	20
<b>11.</b>	<b>The special accounting scheme for gold transactions .....</b>	<b>21</b>
11.1	About the special accounting scheme.....	21
11.2	When does the scheme apply?.....	21
11.3	How does the scheme work? .....	21
11.4	Accounting for output tax as a purchaser.....	22
11.5	Dealings on the terminal market in gold.....	22
11.6	Issue of VAT invoices for supplies of gold covered by the scheme.....	22
<b>12.</b>	<b>Filling in your VAT return .....</b>	<b>24</b>
<b>13.</b>	<b>Registration .....</b>	<b>25</b>
<b>14.</b>	<b>Smuggled gold .....</b>	<b>26</b>
14.1	How to avoid buying smuggled gold .....	26
<b>15.</b>	<b>List of weights accepted by the bullion markets .....</b>	<b>27</b>
<b>16.</b>	<b>Glossary of terms.....</b>	<b>28</b>

## 1. Gold: an overview of the VAT treatment

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### 1.1 What is this notice about?

Gold can be used for investment and industrial purposes. For investment purposes, gold is minted or transformed into coins, ingots, bars and wafers as a store of value and a hedge against inflation.

This notice explains how you should treat supplies, acquisitions and imports of gold and investment gold for VAT purposes.

It covers the following aspects:

<b>Section</b>	<b>explains...</b>
<b>2</b>	<ul style="list-style-type: none"> <li>• the criteria gold must meet to be treated as investment gold; and</li> <li>• how supplies of it, which are normally exempt from VAT, should be treated.</li> </ul>
<b>3</b>	the need to notify us when you make exempt supplies of investment gold.
<b>4</b>	the procedures to follow if you wish to opt to tax investment gold.
<b>5</b>	how to reclaim input tax.
<b>6</b>	the invoicing requirements for trading in exempt investment gold.
<b>7</b>	how you should keep your records, and supplies by auctioneers and agents in respect of investment gold.
<b>8</b>	how you must treat your importations and exportations of investment gold.
<b>9</b>	how penalties are levied.
<b>10</b>	that other supplies of gold will remain taxable at the standard rate, with the exception of certain transactions between central banks and transactions on the London Bullion Market.
<b>11</b>	the special accounting scheme you must operate if you buy or sell standard-rated gold including investment gold.
<b>12</b>	how you complete your VAT return – VAT 100.
<b>13</b>	VAT registration.
<b>14</b>	how to avoid buying smuggled gold.
<b>15</b>	the list of weights accepted by the Bullion Market.
<b>16</b>	the glossary of terms used in this notice.

It has been restructured and rewritten to improve readability, but the technical content has not changed from the February 2000 edition.

This notice and others mentioned are available on paper and on our Internet website at [www.hmce.gov.uk](http://www.hmce.gov.uk).

## 2. Exemption for investment gold

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**Investment gold is exempt from VAT, subject to an option to tax. If you are interested in opting to tax your supplies you need to read section 4.**

### 2.1 What is investment gold?

Investment gold is:

- (a) gold of a purity not less than 995 thousandths that is in the form of a bar, or a wafer, of a weight accepted by the bullion markets;
- (b) a gold coin minted after 1800 that:
  - is of a purity of not less than 900 thousandths;
  - is, or has been, legal tender in its country of origin; and
  - is of a description of coin that is normally sold at a price that does not exceed 180% of the open market value of the gold contained in the coin; or
- (c) an investment gold coin as specified in Notice 701/21A *Investment gold coins*.

### 2.2 Exemption

The following supplies are exempt:

- (a) a supply of investment gold;
- (b) a supply which confers the right to take possession of investment gold. This includes supplies of unallocated investment gold (see section 16), loans, swaps, forward and future contracts concerning investment gold. This does not include options. Also see Notice 701/9 *Derivatives and terminal markets*.
- (c) a supply of services by an agent which consists of attempting to bring about a supply within (a) or (b) above for a named principal, whether or not the agent is successful.

### 3. The need to notify exempt supplies of investment gold

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**Certain paragraphs within this section have legal force, and these are enclosed within boxes.**

#### 3.1 When and how do I have to notify?

The first time that you make an exempt supply of investment gold which exceeds £5,000, or when the value of your supplies of exempt investment gold to any one customer is over £10,000 in any 12 month period, you must notify us within 28 days at the following address:

The Gold Team  
HM Customs and Excise  
Thomas Paine House  
Angel Square  
Torrens Street  
LONDON EC1V 1TA

If you are required to notify that you trade in investment gold and you are not registered for VAT, you must also provide the following information:

1. Name of company, partnership or sole proprietor.
2. Company incorporation number or details of partners.
3. Address(es).
4. Telephone number.
5. Contact name.
6. Accountant's name, address and telephone number.
7. Associated VAT registration numbers.

The Gold Team will send you an acknowledgement. If, however you do not receive this within 28 days, you must check that they have received your notification.

You do not need to notify us of subsequent supplies.

**3.2 Format for notification**

Your notification should be in the following format.

**PERSONS WHO TRADE IN INVESTMENT GOLD – FORM OF NOTIFICATION**

To:

The Gold Team  
HM Customs & Excise  
Thomas Paine House  
Angel Square, Torrens Street  
LONDON EC1V 1TA

Dear Sir/Madam

In accordance with the requirements outlined in paragraph 3.1 to Notice 701/21, *Gold*, I am writing to notify you that I am trading in investment gold.

I am registered for VAT; my registration number is:

.....

I am not registered for VAT; the details requested in paragraph 3.1 of Notice 701/21 *Gold* are as follows:

1. Name of Company/Partnership/Proprietor:

.....

2. Company incorporation number/details of partners:

.....

3. Address:

.....

.....

4. Telephone number:

.....

5. Contact name:

.....

6. Accountant's full name and address:

.....

.....

..... Post Code: .....

7. Associated VAT registration numbers (if any):

.....

Please acknowledge receipt

Surname: ..... First Name: .....

Signed: ..... Dated: .....

Status: *Proprietor/Partner/Director/Company Secretary/Authorised Person*

*(Delete as applicable)*

#### 4. Opting to tax investment gold

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**Certain paragraphs within this section have legal force, and these are enclosed within boxes.**

##### 4.1 Why should I opt to tax?

You may wish to opt to tax a supply of investment gold because you can then reclaim all input tax directly attributable to that supply.

##### 4.2 When may I opt to tax?

You may only opt to tax supplies of investment gold (see paragraph 2.1) made to another taxable person. You may also opt to tax investment gold coins if you produce the coins yourself. Supplies of investment gold to non-taxable persons will always be exempt.

##### 4.3 What if I produce or transform gold into investment gold?

As long as you are a taxable person you may opt to tax any supply of investment gold to another taxable person.

You must notify your local Business Advice Centre if you intend to opt to tax. If you do not receive an acknowledgement within 28 days, you must check that they have received the notification.

##### 4.4 What if I supply gold for industrial purposes?

If you are a taxable person, who as a normal part of your business supplies gold for industrial purposes, you may only opt to tax certain supplies of investment gold, **but you need to get our agreement first.**

To get our agreement to you opting to tax your supplies of investment gold, you must write to your local Business Advice Centre, giving your VAT registration number and confirming that you normally trade in gold for industrial purposes. If they agree they will send you a letter of approval within 28 days. They will normally impose conditions and the letter will also explain what these are and tell you when you can start opting.

We will accept that you normally supply investment gold for industrial purposes if you can show that you do so on a regular basis.

Once you have received our agreement, you may opt to tax supplies of investment gold bars or wafers you make to other taxable persons.

We may however withdraw our approval for the protection of the revenue.

##### 4.5 What if I act as an agent?

If you are acting for a named principal and your principal has opted to tax, you may opt to tax your services in so far as they are related to your principal's "opted" supplies of investment gold.

You must inform your local Business Advice Centre that you intend to opt to tax your services. If you do not receive an acknowledgement within 28 days, you must check that they have received the notification.

##### 4.6 Do I need to alter my invoices?

As opting to tax a transaction is simple - once you have fulfilled the conditions in paragraph 4.3, 4.4 and 4.5, all you need to do is to include the following statement on your invoice.

"We have opted to tax this transaction."

**But please note that once you have opted to tax a particular supply you cannot change your mind and exempt it.**

##### 4.7 Accounting for opted transactions

If you intend to opt to tax you should also read section 11 of this notice which explains how to account for VAT.



## 5. Reclaiming input tax

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### 5.1 When can I reclaim input tax?

If you opt to tax a particular supply of investment gold (see section 4) you will be able to reclaim **all** the related input tax as you will be making a taxable supply of investment gold. To reclaim all your input tax you will need to be able to show that none of your input tax relates to any exempt supplies of investment gold.

If you make exempt supplies and are registered for VAT, you may not be able to reclaim all of the input tax you incur. Normally you can only reclaim input tax incurred on goods and services used, or to be used, in making taxable supplies. You will find more about this in Notice 706 *Partial exemption*. But, there are special rules about reclaiming input tax you incur on some of the goods and services that are directly attributable to your exempt supplies of investment gold.

These special rules are set out in paragraphs 5.2, 5.3 and 5.4.

### 5.2 Reclaiming input tax directly attributable to purchases of gold

If you are going to make exempt supplies of investment gold you may reclaim input tax on the following directly related goods and services:

- the purchase of any investment gold on which you have been charged VAT (for example because your supplier has opted to tax - see section 4);
- the purchase of any other gold which you are going to transform into investment gold; and
- the costs of having your gold transformed into investment gold.

### 5.3 Reclaiming input tax on directly attributable overheads

If you actually produce or transform any gold into investment gold yourself, you may also reclaim the input tax you incur on related goods and services. But **only to the extent that they are linked to the production or transformation process**.

For example:

- gold;
- machinery, plant and fittings;
- crucibles and furnace linings;
- laboratory instruments and equipment;
- tools, tooling and equipment;
- fuel and power;
- buildings and maintenance of buildings; and
- fume abatement and effluent treatment.

You cannot reclaim any input tax that is not linked to the production or transformation process. For example, you cannot reclaim input tax on a computer used for recording exempt sales of investment gold.

If you use a building for the production of exempt investment gold, and an area is set aside for the sale of that investment gold, the input tax on the building will have to be split to reflect the fact that only a part of it is linked to the production of the investment gold.

### 5.4 What if the input tax covers both exempt and taxable supplies?

- (a) You may incur input tax on goods, including taxed investment gold, or services which are used partly to make exempt supplies of investment gold and partly to make other supplies. Under the normal rules for partial exemption you must attribute input tax on any goods and services exclusively used to make taxable and exempt supplies, directly to those supplies. Any residual input tax has to be apportioned between the supplies.

Since there is a limited right to deduct input tax directly attributable to exempt investment gold, when it comes to apportioning residual input tax, the normal partial exemption rules will not fully identify the correct amount to be reclaimed. This is because attribution to the supply alone will not determine the extent that VAT is allowable. There has to be a further stage to identify allowable input tax. Therefore you will not be able to use the standard partial exemption method and will have to work out separately how much input tax incurred in respect of any exempt supplies of investment gold can be reclaimed.

(b) If you make exempt supplies of investment gold and you:

- are **not** a producer or transformer and **do not** buy in transformation services, you may reclaim only the VAT incurred on the taxed investment gold itself. If you receive a mixed supply part of which is investment gold that you intend to supply partly as exempt investment gold and partly as other goods or services, you will first have to work out the extent to which the input tax on the supply you received is attributable to your various supplies. For the element attributable to your exempt supply of investment gold, you will then have to work out how much of that input tax relates to the gold itself. You cannot, for example, reclaim any input tax incurred on a separate delivery service of that gold.
- you are **not** a producer or transformer but **do** buy in transformation services, you may reclaim the VAT you incur on taxed investment gold itself, other gold, and the VAT you incur on any outsourced transformation services. If you incur any input tax which is in part attributable to your supplies of exempt investment gold and in part attributable to your other supplies, you will first have to work out the extent to which the input tax incurred is attributable to your various supplies. Then, for the element attributable to the exempt supply of investment gold, you will need to work out the extent to which it relates to the gold itself and to the transformation services.
- you **are** a producer and/or transformer, you will be able to reclaim the VAT incurred on any related gold and also any VAT incurred on production and/or transformation costs. If you incur any input tax which is in part attributable to your supplies of exempt investment gold and in part attributable to other supplies, you will first have to work out the extent to which that input tax is attributable to your various supplies. Then, for the element attributable to the exempt supply of investment gold, you will need to work out the extent to which it relates only to the gold and production/transformation costs.

(c) Example showing how to reclaim input tax attributable to both exempt and taxable supplies.

A business buys a new building on which it is charged VAT. Part of the building is to be used to produce exempt investment gold, other gold and silver. Part is set aside as a sales area for these goods, and part is rented out (an exempt supply). VAT on the building relates to:

- production and sales of exempt investment gold;
- production and sales of other gold;
- production and sales of silver; and
- the rental.

To know how much VAT the business can reclaim, it will have to work out to what extent the building is to be used to make the supplies of the non-investment gold and silver, the extent that it is to be used to make the supplies of exempt rental and the extent that the building is to be used to make the supplies of exempt investment gold (including an element of the sales area). Having identified an element that relates to the supplies of investment gold, the business will then have to work out how much of this actually relates to the production of that investment gold. This can be claimed in addition to the part that relates to the production and sales of the other gold and the silver.

## 6. Invoicing requirements for trading in exempt investment gold

**Certain paragraphs within this section have legal force, and these are enclosed within boxes.**

### 6.1 Basic information about requirements

There are special notification, invoicing, accounting and record keeping requirements for persons who trade in exempt investment gold.

The requirements apply when:

- you sell exempt investment gold; and
- the gold is delivered, or otherwise made available to your customer.

**If you do not meet your notification, invoicing, accounting and record keeping obligations you may become liable for a penalty. See section 9.**

**The requirements and penalties apply whether or not you are registered or liable to be registered for VAT.**

### 6.2 When do I need to issue an invoice for sales of exempt investment gold?

You **must** issue an invoice for:

- each sale involving exempt investment gold which exceeds £5,000;
- smaller transactions if the total value of sales to that customer has exceeded £10,000 in the last twelve months.

You must also give each invoice a unique identifying number.

But please note that you do not need to produce the invoice or keep the records described in this section or section 7 or notify us that you trade in investment gold (section 3) if every supply of investment gold you make is for less than £5,000, unless the total value of supplies to an individual customer over the previous twelve months was above £10,000.

### 6.3 Do I need to raise an invoice if I buy investment gold from a person who does not trade in investment gold?

Yes - you **must** issue an invoice on behalf of the seller if:

- the value of the purchase is more than £5,000; or
- you make more than one purchase from the same supplier and the total value of your purchases from that supplier has gone over £10,000 in the last twelve months.

It must contain all of the relevant details specified in paragraph 6.4.

Also, the invoice must include the following declaration which must be signed by the seller:

**"I declare that to the best of my knowledge the details shown on this invoice are correct." (Signature and name).**

### 6.4 What must I show on the invoice for sales of exempt investment gold?

Each invoice **must** contain the following details if appropriate:

- name and address of seller; your name and address (if different to the seller); name and address of the purchaser; delivery address (if different); unique customer reference (see paragraph 7.1(b)).
- date of invoice; delivery date; type of supply (for example, sale).
- your VAT registration number if you, or your principal are registered for VAT, or the seller's VAT registration number (if you are not the seller); and
- a description of the gold supplied;
  - for bars and wafers: form, weight and purity, any other identifying feature (including any proprietary mark, hallmark and serial number where applicable); **or**
  - for investment gold coins: the coin type, country of origin and whether or not the coin is included on the list of gold coins reproduced in Notice 701/21A *Investment gold coins*.
- the number of items; and

- the total amount payable.

### **6.5 What must I show on an invoice when I charge VAT?**

If you sell investment gold on which you have charged VAT (for example, because you have opted to tax) you must comply with all the normal invoicing requirements for taxable transactions, (see Notice 700 *The VAT Guide*) and the requirements of the special accounting scheme for gold (see paragraph 11.6).

### **6.6 What if the invoice is for both taxable and exempt gold?**

If you supply taxable items (including gold) and exempt investment gold together you may include all the items on the same invoice, provided the invoice contains all the appropriate details.

## 7. Records to be kept

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**Certain paragraphs within this section have legal force, and these are enclosed within boxes.**

### 7.1 Records to be kept for gold delivered or taken away by your customer

If you sell exempt investment gold which is delivered or available to be taken away by your customer, you must keep the following information as part of your business records. These requirements do not apply if you make supplies described within paragraphs 7.2, 7.3(a), 7.6 and 8.2.

**This applies whether or not you are registered for VAT.**

#### **(a) Accounting record.**

You must keep and maintain a record showing the following details:

- invoice number;
- invoice date;
- customer reference number;
- customer's VAT registration number (if applicable);
- description of the gold (form, quantity and purity);
- name and address of the agent (if applicable);
- name and address of the purchaser; and
- transaction value.

#### **(b) Customer record.**

You must keep and maintain a record identifying customers who purchase exempt investment gold. This record must have a unique reference number and contain the following information:

- name;
- date of birth;
- current address; and
- telephone number (if available).

You must take reasonable steps to ensure that your customer has given you correct information. In order to do this, you must ask for and examine at least one document from each of the following lists.

List 1	List 2
Passport	Telephone bill
Full driving licence	Other utility bill
National Insurance card	Deeds
Birth certificate	Tenancy lease
National identity card	Council tax bill
	Hotel key card (for non-UK residents only)

You may agree alternative satisfactory evidence with your local Business Advice Centre.

If possible, you should keep a copy of the documents you see. You should write on each copy "certified as original document". You must sign and date this declaration.

If it is not possible to keep a copy of the document you see, you must record, as part of your customer record, sufficient details to enable us to obtain a copy if we ask. As a minimum you should record:

- the name of the document;
- the reference number; and
- the name and address of the issuing authority.

You must insist that your customer produces the original document. You must keep the record up to date.

**(c) Method of keeping the required particulars.**

Where you are required to keep and maintain the records specified in parts a) and b) of this paragraph you may, as an alternative, keep and maintain the details required in a manner which is convenient for your business provided:

- all the details specified are accessible for inspection by a VAT officer; and
- you have agreed the format with your local Business Advice Centre.

## 7.2 Banks and other financial service businesses

If you are a bank or other financial service business which, for the purposes of the *Money Laundering Regulations 1993 (S.I. 1993/1933)*, is a "relevant financial business" you may, as an alternative to the customer record set out in paragraph 7.1(b), keep and maintain the records specified in those regulations.

Relevant financial businesses to whom this applies must conduct the appropriate identification procedures and keep the required records in the case of all transactions in investment gold where the value of a one-off transaction exceeds 15,000 euro or, where one-off transactions appear linked and their value together exceeds 15,000 euro.

For the purposes of this notice the exchange rate between the euro and the United Kingdom Pound sterling shall be the annual rate published in the Official Journal of the European Communities (OJEC).  
[www.europa.eu.int/eur-lex](http://www.europa.eu.int/eur-lex).

## 7.3 Auctioneers and other agents of investment gold

(a) Where you are acting in your own name

If, as an agent or auctioneer, you invoice goods in your own name for goods sold on behalf of a third party vendor, the goods are treated for VAT purposes as supplies both to and by you. Auctioneers are treated as agents for VAT purposes. For more information about the VAT treatment of transactions by agents see Notice 700 *The VAT Guide*.

You are considered to be making a supply of services to the vendor in return for commission charged, and if a buyer's premium is charged, you are also making a further supply of services to the buyer.

It is important not to confuse the supply of the goods with the supply of services to the seller or the buyer.

As an agent or auctioneer, you are treated as if you were supplying the goods yourself. The special scheme applies to you in the same way as it would apply to a principal. Supplies involving investment gold or investment gold coins will be exempt, unless you are selling gold upon which an option to tax has been exercised. For more information about opting to tax see section 4. The auctioneer will also have the same rights of deduction (see section 5) and is bound by the same notification, record keeping and accounting obligations (see sections 6, 7, and 8).

It is important that you check with the vendor before the sale whether the gold being sold is investment gold. If you are an auctioneer you should also remember that investment gold coins are not eligible for the Auctioneers' Scheme.

**If you are an agent or auctioneer acting in your own name, your supply of services to either the buyer or the seller will be taxable.**

(b) Where you are acting in the name of your principal

If, as an agent or auctioneer, you sell and invoice the goods in the name of your principal, your supply will be exempt (see paragraph 2.2). You may opt to tax these services, if you are registered for VAT and your principal also opts to tax his onward supply of the investment gold (see paragraph 4.5).

#### 7.4 Internet and mail order sales

If you sell investment gold over the internet or by mail order and you fulfil the conditions at (a) or (b) below, you may, instead of keeping the customer record set out at paragraph 7.1(b), keep and maintain the following record:

- (a) if your supply is paid for by credit card and the delivery address is also the card holder's address, you must record the name of your customer, the credit card issuer and the card number; or
- (b) if your supply is paid for by cheque, you must record the name of your customer, the name of the bank and the account number of your customer.

You must also keep proof of despatch of the investment gold to your customer's address.

#### 7.5 Sales by VAT registered businesses

If you are registered for VAT and you are:

- authorised to opt to tax supplies of investment gold; or
- a producer or transformer of investment gold;

you must keep and maintain with your VAT account, in addition to the records set out in paragraphs 3.1, 6.2, 6.3, and 7.3(a) and 7.6, a record of any supply of investment gold made to another taxable person where you have delivered or otherwise made the gold available to them, and on which you have not opted to tax.

#### 7.6 Sales to VAT registered businesses

If you sell investment gold to another VAT registered business you may, instead of keeping the customer record described at paragraph 7.1(b), ask your customer for their VAT registration number. However, you must check with your local Business Advice Centre that the VAT registration number provided is authentic.

#### 7.7 How long must I keep my records?

You must keep all the documents and records specified in this section for at least 6 years from the date of the transaction. In the case of regular customers, you must keep your customer record for 6 years following the most recent supply of investment gold.

If you purchase investment gold you must keep the purchase invoice you receive for at least 6 years from the date of the transaction.

## **8. Imports and exports of investment gold**

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### **8.1 Imports and acquisitions**

Imports and acquisitions (see section 16) of investment gold from a place outside the UK are exempt from VAT. But you must enter the transaction details on Customs Procedure Code form (CPC) 40 00 73 in order to gain the exemption.

Further information on imports and acquisitions is given in Notice *725 The Single Market* and Notice *702 Imports*.

### **8.2 Exports and despatches**

The supply of investment gold which is exported to a place outside the EC or despatched to a business in another EC member state is outside the scope of UK VAT with input tax recovered in accordance with the normal rules. You must however, keep evidence of the export or despatch. Further information is given in Notice *703 VAT: Exports and removals of goods from the United Kingdom* and Notice *704 VAT Retail exports*.

### **8.3 EC sales lists (ESLs) and Intrastat**

You do not need to complete ESLs for exempt sales of investment gold to businesses established in other EC member states. You must, however, complete any required Intrastat declaration.



## **9. Penalties**

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### **9.1 Why are there penalties?**

Gold frequently moves between the taxable (industrial) and exempt (investment) markets and can be easily transformed into taxable gold or gold products such as jewellery. We need a full audit trail in order to make sure that VAT is properly accounted for when this happens.

The notification, invoicing, and record keeping requirements described in sections 3, 6 and 7 provide this audit trail. The Finance Act 2000 introduced a penalty, chargeable when businesses (whether or not they are registered or liable to be registered for VAT) do not satisfy these requirements.

If you are assessed for this penalty it does not mean that you are suspected of involvement in a VAT fraud.

### **9.2 When might I be liable to a penalty?**

You will only be charged a penalty if we are not satisfied that you have a reasonable excuse, see paragraph 9.6, and we may reduce the amount of the penalty if this is justified in the circumstances of the case, see paragraph 9.7.

### **9.3 Is there a time limit for assessing a penalty?**

Yes. The penalty will not be assessed more than 3 years after the transaction date, or more than 2 years after we had sufficient facts to make the assessment.

### **9.4 What is the penalty?**

The penalty will normally be 17.5% of the value of the transactions concerned.

### **9.5 Best judgement**

Where there is doubt about the value of the transactions, we will assess the penalty on the basis of our best judgement. We will consider all the relevant material before us, making an honest and fair estimate of the value of the transactions involved.

### **9.6 Reasonable excuse**

We will not impose a penalty if you have a reasonable excuse for failing to comply with the requirements. Although reasonable excuse is not defined in law, we do not regard insufficient funds or reliance on information from a third party as being a reasonable excuse. Ignorance of the law would not normally constitute a reasonable excuse either, although it may be a mitigating factor, see paragraph 9.7.

We will look carefully at the individual circumstances of each case, and take into account whether or not the circumstances could be foreseen and what steps were taken to make alternative arrangements. We will also consider whether you contacted your local Business Advice Centre for help and advice, and whether you gave sufficient priority to meeting your obligations.

### **9.7 Mitigation**

We, or on appeal, the VAT and Duties Tribunal may reduce the amount of the penalty taking into consideration the individual circumstances of each case. For example, we will consider the following in deciding whether a reduction of the penalty is appropriate:

- number of breaches;
- seriousness of breaches;
- co-operation with Customs;
- compassionate grounds;
- the period of time involved;
- deliberate or reckless behaviour;
- perceived risk to the revenue; and
- degree of care exercised.

It is your responsibility to bring to our attention any mitigating factors.

## **9.8 Right of appeal**

If you disagree with our decision to issue a penalty, you can ask your local Business Advice Centre to reconsider it. You should certainly do this if you can provide new information or you think we have not taken everything into account. This does not affect your right to appeal to the VAT and Duties Tribunal.

You may ask us to reconsider, or appeal to the VAT and Duties Tribunal about:

- your liability to the penalty;
- the amount of the penalty;
- our refusal to accept you have a reasonable excuse; and
- the amount by which we have mitigated the penalty.

## 10. Transactions in gold, other than investment gold

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### 10.1 What to do first

When you make or receive supplies of gold that is not investment gold you need to determine whether or not your supplies come within the scope of UK VAT.

### 10.2 Is the supply within the scope of UK VAT?

If you are making or receiving supplies of gold, other than investment gold the following decision table explains the VAT liability of the supply.

Step	Decision	Further information
1	Is the gold allocated? <i>If 'yes', go to step 2.</i> <i>If 'no', go to step 3.</i>	See paragraph 2.2 and section 16.
2	Is the gold in the UK? <i>If 'yes', go to step 4.</i> <i>If 'no', the supply is outside the scope of UK VAT.</i>	
3	Does the supplier belong in the UK? <i>If 'yes', go to step 5.</i> <i>If 'no', go to step 6.</i>	
4	Is the gold exported? <i>If 'yes', the supply is zero-rated.</i> <i>If 'no', the supply is standard-rated.</i>	See conditions set out in Notice 703 <i>Exports and removal of goods from the United Kingdom</i> or Notice 704 <i>VAT Retail Exports</i> .

5	<p>Does the customer belong in the EC?</p> <p><i>If 'yes', go to step 7.</i></p> <p><i>If 'no', the supply is outside the scope of UK VAT.</i></p>	<p>See Notice 703 <i>Exports and removal of goods from the United Kingdom.</i></p> <p><i>Input tax may be reclaimed</i></p>
6	<p>Is the customer a business which belongs in the UK?</p> <p><i>If 'yes', the customer accounts for VAT on the supply at the standard rate.</i></p> <p><i>If 'no', the supply is outside the scope of UK VAT.</i></p>	<p>See Notice 703 <i>Exports and removal of goods from the United Kingdom.</i></p> <p>See section 11.</p>
7	<p>Is the customer a business which belongs outside the UK?</p> <p><i>If 'yes', input tax credit may be reclaimed.</i></p> <p><i>If 'no', the supply is standard-rated.</i></p>	<p>See Notice 703 <i>Exports and removal of goods from the United Kingdom.</i></p>

### 10.3 Zero-rating

Some transactions are specifically zero-rated and details of these are in paragraphs 10.4 and 10.5.

### 10.4 Supplies between central banks and members of the London Bullion Market Association

Any supply between central banks (see section 16) or between a central bank and a member of the London Bullion Market of:

- gold, including investment gold, held in the UK;
- a right to acquire gold, including investment gold, held in the UK; and
- a part interest in gold, including investment gold, held in the UK,

is zero-rated.

### 10.5 Supplies of gold on the London Bullion Market

The London Bullion Market is a commodity market for the purposes of the Value Added Tax (Terminal Markets) Order 1973. Members of the London Bullion Market are, for the purposes of the same Order, considered to be persons who are members of the London Bullion Market Association.

Certain transactions in gold on the London Bullion Market are zero-rated under the provisions of the Value Added Tax (Terminal Markets) Order 1973. See Notice 701/9 *Derivatives and terminal markets.*

### 10.6 Items of numismatic interest

Although precious metals are excluded from the second-hand margin scheme, gold coins (other than investment gold coins) bought and sold as collectors' items may be eligible as items of numismatic interest (see Notice 718 *Margin schemes for second-hand goods, works of art, antiques and collectors' items*) and section 11.

### 10.7 Imports and acquisitions

Importations and acquisitions (see section 16) of gold and gold coins, other than investment gold are chargeable with VAT at the standard rate. However, importations and acquisitions of gold by central banks (see section 16) are subject to special treatment (see paragraph 10.4).

Further information on imports and acquisitions is given in Notice 725 *The Single Market* and Notice 702 *Imports.*

### 10.8 Exports and despatches

The supply of gold and gold coins, other than investment gold, which is exported to a place outside the EC, or despatched (see section 16) to another business in another EC member state, is outside the scope of VAT. You must complete any required Intrastat declaration for trade with other EC member states.

Further information is given in Notice 703 *Exports and removals of goods from the United Kingdom* and Notice 704 *VAT Retail Exports.*

## 11. The special accounting scheme for gold transactions

**Note: the special accounting scheme for gold is compulsory.**

### 11.1 About the special accounting scheme

The special accounting scheme for gold is to be used for the transactions in gold listed below at paragraph 11.2 between VAT registered traders.

Under normal VAT procedures, if you are a VAT registered trader selling goods you issue a VAT invoice and receive payment for the price of the goods and the VAT due on the sale. You (as the seller) then account to us for this VAT on your next VAT return.

**The scheme transfers the responsibility for paying the VAT on certain transactions in gold from the seller to the buyer.**

### 11.2 When does the scheme apply?

The special accounting scheme for gold **must** be used when:

- the seller and the buyer are both VAT registered persons, or are persons liable to be registered as a consequence of the transaction, or other transactions;
- the supply by the seller is by way of business and the buyer is making the purchase in connection with any business carried on by them; or
- you carry out treatment or processing work on your customers' goods, and the goods produced are fine gold (see section 16), gold grain of any purity, or gold coins.

The special accounting scheme for gold will apply if you supply:

- goods consisting of fine gold (see section 16), and gold coins - except coins traded under the second-hand margin scheme. See Notice 718 *Margin schemes for second-hand goods, works of art, antiques and collectors' items*. Supplies of dental gold, gold targets and gold slugs are excluded;
- goods containing gold for which the amount paid or payable for the supply (apart from any VAT) does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods. The open market value of the gold is the "fix price" of the gold at the time of supply, this is the price set in the twice-daily meetings by London Gold Fixing Ltd. This includes supplies of scrap (including live scrap – scrapped jewellery, broken jewellery, watch cases, cigarette cases etc) and sweepings. Supplies of part manufactured or finished jewellery, gold compounds and semi manufactured carrated products, are excluded (except gold grain);
- services of treating or processing goods to make fine gold (see section 16), gold grain or gold coins; or
- investment gold regardless of whether the supply is classed as a supply of goods or a supply of services where the seller has exercised the option to tax outlined at section 4, or where the supply is between a member and a non-member of the London Bullion Market Association.

### 11.3 How does the scheme work?

If you are liable to use the special accounting scheme, you should follow the procedure table below.

Step	Ask yourself...	Further information
1	Are you a UK VAT registered business? <i>If 'yes', go to step 3.</i> <i>If 'no', go to step 2.</i>	
2	Are you liable to be registered for VAT? <i>If 'yes', <b>apply to register</b>. Failure to do so may make you liable to financial penalties.</i> <i>If 'no', you are not making taxable supplies.</i>	See section 13 and Notice 700/1 <i>Should I be registered for VAT?</i>
3	Is this a supply of gold of a type described in paragraph 11.2? <i>If 'yes', go to step 5 for gold coins, or step 7 for other supplies of gold.</i>	
	<i>If 'no', go to step 4.</i>	

4	<p>Is this a supply of gold coins?</p> <p><i>If 'yes', go to step 5.</i></p> <p><i>If 'no', the supply is <b>not</b> within the scope of the special accounting scheme. You <b>must</b> charge VAT to your customer who should pay it to you. You <b>must</b> issue a VAT invoice and account for the VAT to Customs and Excise.</i></p>	
5	<p>Are the coins investment gold coins?</p> <p><i>If 'yes', go to step 6.</i></p> <p><i>If 'no', VAT may be accounted for under the margin scheme, or go to step 7.</i></p>	<p>See Notice 701/21A <i>Investment gold coins.</i></p> <p>See Notice 718 <i>Margin scheme for second-hand goods</i></p>
6	<p>Are you a producer or transformer of investment gold coins who has opted to tax the supply?</p> <p><i>If 'yes', go to step 7.</i></p> <p><i>If 'no', your supply is exempt and the special accounting scheme does not apply unless you are a member or are dealing with a member of the London Bullion Market Association.</i></p>	<p>See section 4.</p> <p>See paragraph 11.5.</p>
7	<p>Are you satisfied your buyer is a UK VAT registered business?</p> <p><i>If 'yes', the supply is within the scope of the special accounting scheme. You must issue a tax invoice as described in paragraph 11.6. The <b>purchaser</b> pays you the <b>VAT exclusive price</b> of the gold and accounts for the output tax to Customs and Excise.</i></p> <p><i>If 'no', the special accounting scheme does not apply.</i></p>	<p>See paragraphs 11.4 and 11.6.</p>

#### 11.4 Accounting for output tax as a purchaser

If you purchase gold under the special accounting scheme for gold, you must account for VAT on the value of the supply of gold made by the seller. If you fail to do this, we may assess you for the VAT due on the transaction.

If you purchase manufactured goods containing gold which are held out for sale as such, and you pay over VAT to your supplier, you may be required to prove that your purchase did not fall within the provisions of the special accounting scheme for gold. If you cannot prove this, you may be treated as if you purchased gold and you will be required to account for the output tax due under the special accounting scheme.

#### 11.5 Dealings on the terminal market in gold

Supplies which are zero-rated under the Terminal Markets Order are unaffected by the special accounting scheme for gold. However, transactions between members of the London Bullion Market Association and taxable persons who are not members of that Association are taxable at the standard rate and the special accounting scheme applies (see paragraph 10.5). In such a case the London Bullion Market Association member or non-member must raise a VAT invoice as usual. This must bear the form of words detailed in paragraph 11.6 and the buyer is responsible for accounting for the seller's output tax. See Notice 701/9 *Derivatives and terminal markets*.

#### 11.6 Issue of VAT invoices for supplies of gold covered by the scheme

If you make a supply of gold under the special accounting scheme for gold, you must issue a VAT invoice to the buyer. This must show all of the information normally required to be shown on VAT invoices, (see Notice 700 *The VAT Guide*, and for investment gold paragraph 6.2). The seller's invoice must include a form of words to the effect that the output tax shown on the invoice is payable to Customs by the purchaser of the gold. The suggested form of words is:

"£.....output tax on this supply of gold to be accounted for to Customs and Excise by the buyer."

The invoice must also show:

- (a) the time of supply (or tax point). This is ordinarily the date of delivery of the gold or the date when the gold is made available for removal by the purchaser, (see Notice 700 *The VAT Guide*);

**and**

- (b) a description sufficient to identify the goods which includes:

- the weight of the gold;
- the purity of the gold;
- the number of individual items (where possible); and
- the fix price of the gold on the day of delivery;

**and**

- (c) the name and address of the buyer;

**and**

- (d) the invoice date and number.

If you are approved to issue self-billed VAT invoices, you must also show all of the above details.

**12. Filling in your VAT return**

<b>Box</b>	<b>Information to enter</b>
<b>1</b>	<p>If you have purchased gold, include the VAT due on your purchase of gold. The purchase of gold is treated as a supply by you as well as by your supplier. You must account for the output tax in the same period that you purchase the gold or it is made available for removal by you whether or not you have sold it.</p> <p>If you have sold gold under the special accounting scheme, do not show the VAT shown on your sales invoice in this box.</p> <p>In this box you must also show output tax due on your other supplies under the normal VAT accounting mechanism.</p>
<b>2</b>	In this box include acquisition (see section 16) tax on any goods, including gold acquired from other EC member states.
<b>3</b>	Enter the sum of box 1 and box 2.
<b>4</b>	Include the VAT due on your purchases of gold. In this box you must also show input tax to be reclaimed under the normal VAT accounting procedures on your other purchases and acquisitions.
<b>5</b>	Complete as normal.
<b>6</b>	Complete as normal. If you have sold gold, enter the VAT-exclusive value of the sale. If you have purchased gold include its value here. This is deemed to be a supply by you, as well as by your supplier.
<b>7</b>	Complete as normal. Include the value of gold you have bought.
<b>8 &amp; 9</b>	Complete as normal.



### 13. Registration

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The special accounting scheme for gold covers supplies of gold between taxable persons as outlined in paragraph 11.2. A taxable person is someone who is either registered for VAT or who is liable to be registered for VAT.

The supply of gold covered by the scheme is treated as a taxable supply by the customer as well as by the seller for the purposes of registration.

In deciding if you are liable to register for VAT you must add the value of your business *purchases* of gold to the value of other taxable supplies which you make including *sales* of gold to arrive at your taxable turnover. So, if you purchase gold in the course or furtherance of a business and you are not registered for VAT, then you must consider whether you are liable to be registered as follows if either:

- in a 12 month period your taxable supplies exceed the registration threshold, you must notify your local Business Advice Centre within 30 days of the end of the month in which the limit was exceeded; **or**
- there are reasonable grounds for believing that the taxable supplies which you will make **in the next 30 days** will exceed the threshold, then you must notify your local Business Advice Centre within 30 days of the day on which grounds first existed.

However, there are special rules for persons who become liable to be registered for VAT solely by virtue of their dealings in investment gold with members of the London Bullion Market Association. If you require further advice you should contact our National Advice Service on 0845 010 9000.

Further information on VAT registration can be found in Notice 700/1 *Should I be registered for VAT? If you fail to notify Customs at the proper time you may be liable to a financial penalty.*

## 14. Smuggled gold

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The use of the special accounting scheme for gold does not alter the fact that **all smuggled gold may be liable to forfeiture under the Customs and Excise Management Act 1979**. This applies even if the gold is found in the hands of an innocent purchaser. It is therefore very important that, in your own interest, you look carefully at the evidence of origin of any gold before you agree to buy it.

The information below is intended as guidance for gold dealers who may be invited to purchase gold bullion, gold coins and gold scrap.

### 14.1 How to avoid buying smuggled gold

If you are buying gold it is important to safeguard your own position by satisfying yourself, as far as you reasonably can, that the metal has not been smuggled. You should satisfy yourself, as to the answers to the following questions (by asking your supplier if necessary) **before** agreeing to buy the gold.

- Where has the gold come from?
- Has it been imported from outside the EC?
- If it has been imported from outside the EC, is there evidence that the gold has been properly declared at import and that import VAT has been paid if appropriate?
- Why is it being sold, and is it offered for sale below market value?
- How is it delivered and is it available in the usual variety of types?
- Is a quick settlement and/or cash payment demanded?
- Is the seller new and does the seller have a fixed place of business?
- Does the seller regularly supply large quantities?
- Has the seller references (from a bank, for example)? And
- Are there other grounds for suspicion about either the standing of the seller or the origin of the gold?

It is not sufficient to confine your questions to the past integrity of your supplier. When buying gold you should be satisfied in all circumstances that it is safe to become involved in the transaction.

Where any person has been found to be dealing in smuggled gold, and we are considering whether the gold should be forfeited and criminal proceedings started, we will look very closely at the nature of the transaction and the degree of care that was exercised.

### 15. List of weights accepted by the bullion markets

In paragraph 2.1 of this notice, investment gold (other than investment gold coins) is defined as: "gold of a purity not less than 995 thousandths that is in the form of a bar, or a wafer, of a weight accepted by the bullion markets".

For the purposes of this definition bars and wafers are commonly traded in the following weights:

<b>Unit</b>	<b>Weights available</b>
London Good Delivery Bar	12.5 Kilogram
Kilogram Bars	1 Kilogram
Gram	500 gram 250 gram 100 gram 50 gram 20 gram 10 gram 5 gram 2.5 gram 1 gram
Ounce (1 oz = 31.1035 grams)	100 ounce 10 ounce 5 ounce 1 ounce ½ ounce ¼ ounce
Tael (1 tael = 1.1913 oz)	10 tael 5 tael 1 tael
Tola (10 tolas = 3.75 oz)	10 tola

## 16. Glossary of terms

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Throughout this notice, the following terms have the meanings shown.

<b>Acquisition:</b>	receipt by a person registered, or liable to be registered for VAT, of goods which have been supplied by a VAT registered trader in another European Community (EC) member state and removed from there to the United Kingdom.
<b>Allocated:</b>	gold or gold coins are allocated if they are set apart and designated as belonging to, or reserved for specific persons or purposes. The supply of allocated gold or gold coins is a supply of goods for VAT purposes. If gold or gold coins are delivered they are, of necessity, allocated.
<b>Central Banks:</b>	these are the Bank of England and its counterparts in other countries.
<b>Despatches/despached:</b>	the removal of goods from the United Kingdom and their acquisition in another member state by a person registered for VAT in that state.
<b>European Community (EC):</b>	the territorial limits of the EC for VAT purposes determine whether certain supplies of services qualify for input tax recovery. Information about the limits is given in Notice 741 <i>Place of supply of services</i> .
<b>Fine gold:</b>	gold with a high purity level. A good delivery bar is acceptable at 0.995.
<b>Unallocated:</b>	gold and gold coins are unallocated if they remain as an unidentifiable part of a larger stock held by a supplier. The supply of unallocated gold or gold coins is a supply of a service for VAT purposes. This service is a financial service for the purposes of the Value Added Tax Act 1994 Schedule 5; it is not, however, an exempt financial service under Group 5 of Schedule 9. Transactions in investment gold may be exempt under Group 15 of Schedule 9.
<b>United Kingdom (UK):</b>	references in this notice to the UK apply also to the Isle of Man unless the text indicates otherwise. VAT is chargeable in the Isle of Man under Manx law, which generally parallels UK legislation. There is no VAT in the Channel Islands, which are outside the UK and EC for VAT purposes.

## Do you have any comments?

We would be pleased to receive any comments or suggestions you may have about this notice. Please write to:

**HM Customs and Excise  
Finance and Gold Team  
4th Floor West  
New Kings Beam House  
22 Upper Ground  
London  
SE1 9PJ**

## If you have a complaint or suggestion

If you have a complaint about our service, or a suggestion on how we can improve it, you should contact your local office or the port or airport. You will find the phone number under "Customs and Excise - complaints and suggestions" in your local phone book. Ask for a copy of our code of practice on complaints (Notice 1000). You will find further information on our website at <http://www.hmce.gov.uk>. If we cannot settle your complaint to your satisfaction, you can then ask the Adjudicator to look into it.

The Adjudicator, whose services are free, is an impartial referee whose recommendations are independent.

The address is:

**The Adjudicator's Office  
Haymarket House  
28 Haymarket  
LONDON  
SW1Y 4SP**

**Phone: (020) 7930 2292  
Fax: (020) 7930 2298  
E-mail: [adjudicators@gtnet.gov.uk](mailto:adjudicators@gtnet.gov.uk)  
Internet: <http://www.adjudicatorsoffice.gov.uk/index.htm>**