
STATUTORY INSTRUMENTS

1992 No. 3129

VALUE ADDED TAX

The Value Added Tax (Special Provisions) Order 1992

Made - - - - *9th December 1992*
Laid before the House of
Commons - - - - *11th December 1992*
Coming into force - - *1st January 1993*

The Treasury, in exercise of the powers conferred on them by sections 3(3), 3(5), 18(1), 18(2), 18(3), 18(4), 18(5), 18(6), 18(7), 19(1) and 29(2) of the Value Added Tax Act 1983(1) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Value Added Tax Act (Special Provisions) Order 1992, and shall come into operation on 1st January 1993.

Interpretation

2. In this Order—

“the Act” means the Value Added Tax Act 1983;

“the Manx Act” means the Value Added Tax and Other Taxes Act 1973(2);

“aircraft mortgage” means a mortgage which is registered in accordance with the Mortgaging of Aircraft Order 1972(3) and by virtue of which an aircraft is made security for a loan;

“caravan” includes a motor caravan but does not include a caravan of a description specified in item (1) of Group 11 of Schedule 5 to the Act;

“finance agreement” means an agreement for the sale of goods whereby the property in those goods is not to be transferred until the whole of the price has been paid and the seller retains the right to repossess the goods;

“firearms” means rifles, shotguns, pistols (including revolvers) and air guns but does not include a weapon specified by section 5(1) of the Firearms Act 1968(4)

(1) 1983 c. 55; subsections (3) and (5) of section 3 were amended by the Finance (No. 2) Act 1992 (c. 48), section 14(2), Schedule 3, sub-paragraphs 4(1) and (2) respectively; subsections (3) and (4) of section 18 were amended by sub-paragraphs (1) and (2) of paragraph 19 of that Schedule and section 19(1) was amended by paragraph 20(1) of that Schedule.

(2) Acts of Tynwald 1973 (c. 1).

(3) S.I. 1972/1268.

(4) 1968 c. 27; section 5(1) was amended by section 1 of the Firearms (Amendment) Act 1988 (c. 45).

“insurer” means a person permitted, in accordance with section 2 of the Insurance Companies Act 1982⁽⁵⁾, to effect and carry out contracts of insurance against risks of loss of or damage to goods;

“marine mortgage” means a mortgage which is registered in accordance with the Merchant Shipping Act 1894⁽⁶⁾ and by virtue of which a boat (but not any share thereof) is made a security for a loan;

“motor cycle” includes a motor bicycle, motor tricycle or motor scooter (whether or not a sidecar is attached), a bicycle or tricycle with an attachment for propelling it by mechanical means and any mechanically propelled vehicle with three wheels capable of accommodating only one person;

“printed matter” includes printed stationery but does not include anything produced by typing, duplicating or photo-copying;

“works of art”, “antiques” and “collectors' pieces” means the following goods—

- (a) paintings, drawings and pastels, executed by hand, other than hand-painted or hand-decorated manufactured articles;
- (b) original engravings, prints and lithographs;
- (c) original sculptures and statuary, in any material;
- (d) antiques, of an age exceeding one hundred years, except pearls and loose gem stones;
- (e) collection and collectors' pieces of zoological, botanial, mineralogical, anatomical, historical, archaeological, paleontological or ethnographic interest.

Revocations

3. The provisions specified in the first column of the Schedule to this Order are hereby revoked to the extent specified in the second column of that Schedule.

Treatment of transactions

4.—(1) Each of the following descriptions of transactions shall be treated as neither a supply of goods nor a supply of services—

- (a) the disposal of any of the goods described in paragraph (3) below by a person who repossessed them under the terms of a finance agreement;
- (b) the disposal of any of the goods described in paragraph (3) below by an insurer who has taken possession of them in the settlement of a claim under a policy of insurance;
- (c) the disposal of a boat by a mortgagee after he has taken possession thereof under the terms of a marine mortgage;
- (d) the disposal of an aircraft by a mortgagee after he has taken possession thereof under the terms of an aircraft mortgage;

if, in each case, the goods so disposed of are in the same condition at the time of disposal as they were when they were repossessed or taken into possession, as the case may be, and if a supply of them in the United Kingdom by the person from whom in each case they were obtained would not have been chargeable with tax, or would have been chargeable with tax on less than the full value of such supply.

(2) Paragraph (1) of this article shall not apply to reimported goods which were previously exported from the United Kingdom or the Isle of Man free of tax chargeable under the Act or value

(5) 1982 c. 50.

(6) 1894 c. 60.

added tax chargeable under Part I of the Manx Act by reason of the zero-rating provisions of the Act or the Manx Act or regulations made thereunder, or to imported goods which have not borne tax chargeable under either of those Acts in the United Kingdom or the Isle of Man.

(3) The goods referred to in paragraphs (a) and (b) of paragraph (1) above are as follows:

- (a) works of art, antiques and collectors' pieces;
- (b) motor cycles;
- (c) caravans;
- (d) boats and outboard motors;
- (e) electronic organs;
- (f) aircraft;
- (g) firearms.

5.—(1) Subject to paragraph (2) below, there shall be treated as neither a supply of goods nor a supply of services the following supplies by a person of assets of his business—

- (a) their supply to a person to whom he transfers his business as a going concern where—
 - (i) the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor, and
 - (ii) in a case where the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, a taxable person or a person defined as such in section 2(2) of the Manx Act;
- (b) their supply to a person to whom he transfers part of his business as a going concern where—
 - (i) that part is capable of separate operation,
 - (ii) the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor in relation to that part, and
 - (iii) in a case where the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, a taxable person or a person defined as such in section 2(2) of the Manx Act.

(2) A supply of assets shall not be treated as neither a supply of goods nor a supply of services by virtue of paragraph (1) above to the extent that it consists of—

- (a) a grant which would, but for an election which the transferor has made, fall within item 1 of Group 1 of Schedule 6 to the Value Added Tax Act 1983(7); or
- (b) a grant of a fee simple which falls within paragraph (a) of item 1 of Group 1 of Schedule 6 to the Value Added Tax Act 1983,

unless the transferee has made an election in relation to the land concerned which has effect on the relevant date and has given any written notification of the election required by paragraph 3(6) of Schedule 6A to the Value Added Tax Act 1983(8) no later than the relevant date.

(3) In paragraph (2) of this article—

“election” means an election having effect under paragraph 2 of Schedule 6A to the Value Added Tax Act 1983;

(7) Group 1 was amended by the Finance Act 1989 (c. 26), Schedule 3 paragraph 4, and by the Value Added Tax (Construction of Dwellings and Land) Order 1990 (No. 2553).

(8) Schedule 6A was inserted by paragraph 6(2) of Schedule 3 to the Finance Act 1989 (c. 26).

“relevant date” means the date upon which the grant would have been treated as having been made or, if there is more than one such date, the earliest of them;

“transferor” and “transferee” include a relevant associate of either respectively as defined in paragraph 3(8) of Schedule 6A to the Value Added Tax Act 1983.

(4) There shall be treated as neither a supply of goods nor a supply of services the assignment by an owner of goods comprised in a hire-purchase or conditional sale agreement of his rights and interest thereunder, and the goods comprised therein, to a bank or other financial institution.

6. The following description of transaction shall be treated as a supply of services and not as a supply of goods—

the exchange of a reconditioned article for an unserviceable article of a similar kind by a person who regularly offers in the course or furtherance of his business to provide a reconditioning facility by that means.

Self-supply

7.—(1) Where a person in the course or furtherance of any business carried on by him produces printed matter and the printed matter—

- (a) is not supplied to another person or incorporated in other goods produced in the course or furtherance of that business; but
- (b) is used by him for the purpose of a business carried on by him;

then, subject to paragraph (2) below, the printed matter shall be treated for the purposes of the Act as both supplied to him for the purpose of that business and supplied by him in the course or furtherance of that business.

(2) Paragraph (1) of this article does not apply if—

- (a) the person is a fully taxable person;
- (b) the value of the supplies falling to be treated as made by and to that person would not, if those were the only supplies made or to be made by that person, make him liable to be registered for value added tax pursuant to the provisions of Schedule 1 to the Act; or
- (c) the Commissioners, being satisfied that the tax (if any) which would be attributable to the supplies after allowing for any credit under sections 14 and 15 of the Act would be negligible, have given, and have not withdrawn, a direction that the paragraph is not to apply.

(3) For the purposes of sub-paragraph (2)(a) above, a person is a fully taxable person if the only input tax of his to which he is not entitled to credit at the end of any prescribed accounting period or longer period is input tax which is excluded from any credit under section 14 of the Act by virtue of any Order made under sub-section (10) of that section.

(4) The preceding provisions of this article shall apply in relation to any bodies corporate which are treated for the purposes of section 29 of the Act as members of a group as if those bodies were one person, but any printed matter which would fall to be treated as supplied to and by that person shall be treated as supplied to and by the representative member.

Relief for certain goods

8.—(1) Subject to paragraph (3) below, paragraph (4) below shall apply to the supply of any of the following goods by a taxable person, where he has taken possession of those goods in any of the circumstances set out in paragraph (2) below—

- (a) works of art, antiques and collectors' pieces;
- (b) used motor cycles;

- (c) used caravans;
- (d) used boats and outboard motors;
- (e) used electronic organs;
- (f) used aircraft;
- (g) used firearms.

(2) The circumstances mentioned in paragraph (1) above are that the taxable person took possession of the goods—

- (a) on a supply in respect of which no tax was chargeable under the Act or under Part I of the Manx Act;
- (b) a supply on which tax chargeable under either of those Acts was chargeable in accordance with paragraph (4) below or a corresponding provision made under the Manx Act;
- (c) pursuant to a transaction which was treated by virtue of any Order made under section 3(3) of the Act or under the corresponding provisions of the Manx Act as being neither a supply of goods nor a supply of services;
- (d) (if the goods are a work of art, an antique or a collectors' piece) on their importation where (whether by virtue of article 9 below or otherwise) no tax was chargeable on their importation.

(3) Paragraph (4) below does not apply to—

- (a) a supply which is a letting on hire;
- (b) a supply if an invoice or similar document showing an amount as being tax or as being attributable to tax is issued in respect of the supply;
- (c) any supply by a taxable person unless he keeps such records and accounts as the Commissioners may specify in a notice published by them for the purposes of this Order or may recognise as sufficient for those purposes;
- (d) a supply of an air gun unless the taxable person is registered for the purposes of the Firearms Act 1968.

(4) Where this paragraph applies, tax shall be charged as if the supply of any of the goods referred to in paragraph (1) above were for a consideration equal to the excess of—

- (a) the consideration for which the goods are supplied, over
- (b) the relevant amount,

and accordingly shall not be charged unless there is such an excess.

(5) For the purposes of sub-paragraph (b) of paragraph (4) above, the relevant amount is—

- (a) if the goods and services in question had been supplied to the taxable person, the consideration for the supply to him;
- (b) if the goods in question had been acquired by him from another member State, the value of their acquisition plus the tax chargeable thereon;
- (c) if the goods in question had been imported by him, the value of the goods for the purposes of charging tax on importation plus any tax chargeable on their importation.

Relief from tax on importation

9.—(1) This article applies to—

- (a) paintings, drawings and pastels, executed by hand, other than hand-painted or hand-decorated manufactured articles, original engravings, prints and litho graphs, original sculptures and statuary, in any material, which were obtained by any person (otherwise

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than by his producing them or by succession on the death of the person producing them) before 1st April 1973;

- (b) antiques, of an age exceeding one hundred years (except pearls and loose gem stones), collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological or ethnographic interest.

(2) Tax shall not be chargeable on the importation from a place outside the member States of any goods to which this article applies.

Irvine Patnick

Tim Boswell

Two of the Lords Commissioners of Her Majesty's Treasury

9th December 1992

SCHEDULE

Article 3

REVOCATIONS

<i>Provision</i>	<i>Extent of Revocation</i>
The Value Added Tax (Special Provisions) Order 1981 (No. 1741)	The whole Order insofar as it contains provisions in respect of which approval by the House of Commons was not required under section 43(4) of the Finance Act 1972 ⁽⁹⁾
The Value Added Tax whole Order (Special Provisions) (Amendment) Order 1991 (No. 2503)	The whole Order

EXPLANATORY NOTE*(This note is not part of the Order)*

Under the directive of the Council of the European Communities dated 17th May 1977, No.77/388/EEC (OJ No. L145, 13.6.1977, p. 1) as amended by the directive of that Council dated 16th December 1991, No. 91/680 EEC (OJ No. L376, 31.12.1991,p. 1), as from 1st January 1993 goods removed to the United Kingdom from another member State of the European Communities will no longer be chargeable to tax on importation. However, such goods may become chargeable to tax on their acquisition in the United Kingdom. Goods imported into the United Kingdom from a place outside the member States will continue to be chargeable to tax on their importation.

This Order revokes and re-enacts, with amendments, the provisions specified in the Schedule. The amendments are made in consequence of the new charging event arising from an acquisition of goods from another member State.

Article 4 re-enacts, with amendments, articles 10 and 11 of the [Value Added Tax \(Special Provisions\) Order 1981 \(No. 1741\)](#) (the 1981 Order). It excludes from the scope of the tax disposals by mortgagees, finance houses and insurers of boats and aircraft, and by finance houses and insurers of works of art, antiques and collectors' pieces and specified used goods (which will have borne tax on an earlier transaction).

Article 5 re-enacts article 12 of the 1981 Order. It excludes from the scope of the tax, in certain circumstances, the transfer of assets of a business, on the transfer as a going concern of the business, or of a part of the business which is capable of separate operation.

Article 6 re-enacts article 13 of the 1981 Order, and treats certain exchanges of reconditioned articles for similar unserviceable articles as a supply of services, and not a supply of goods.

Article 7 re-enacts, with minor amendment, article 14 of the 1981 Order. Its effect is that, in certain circumstances where a person who is not a fully taxable person and who produces printed matter for use in his business (otherwise than by way of supplying them or incorporating them in other goods), the printed matter is to be treated as both supplied to him and by him.

(9) 1972 c. 41; provisions of the Value Added Tax (Special Provisions) Order 1981 that required approval by the House of Commons under section 43(4) of the Finance Act 1972 are repealed by the [Value Added Tax \(Input Tax\) Order 1992 \(No. 3222\)](#).

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Article 8 re-enacts, with amendments, articles 4 and 5 of the 1981 Order. The tax chargeable on the supply of works of art, antiques and collectors' pieces and specified used goods is, in certain circumstances, chargeable by reference to the excess (if any) of the consideration for which the goods are supplied over the cost of their purchase plus (in the case of goods acquired from another member State or imported from a place outside the member States) the tax chargeable on their acquisition or importation.

Article 9 re-enacts, with minor amendments, article 6 of the 1981 Order. It gives relief from tax on the importation of certain original works of art, antiques and collectors' pieces.