
STATUTORY INSTRUMENTS

1992 No. 3261 (C.102)

CUSTOMS AND EXCISE VALUE ADDED TAX

The Finance (No. 2) Act 1992 (Commencement
No. 4 and Transitional Provisions) Order 1992

Made - - - - 17th December 1992

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 1(8), 14(3) and (4) of the Finance (No. 2) Act 1992⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

Citation

1. This Order may be cited as the Finance (No. 2) Act 1992 (Commencement No. 4 and Transitional Provisions) Order 1992.

Interpretation

2. In this Order—

“the Act” means the Finance (No. 2) Act 1992;

“the 1979 Act” means the Customs and Excise Management Act 1979⁽²⁾;

“the 1983 Act” means the Value Added Tax Act 1983⁽³⁾;

“Community external transit operation” means an importation which takes place after 31st December 1992 where the goods are covered by a declaration in form T1;

“Community internal transit operation” means an importation which takes place after 31st December 1992 where—

(a) the goods are covered by a declaration in form T2, by a form T2L or by a Community movement carnet; or

(b) the goods have been sent by post;

“Community transit goods” has the same meaning as in section 1(1) of the 1979 Act;

“customs warehouse” has the same meaning as in Article 4(a) of Council Regulation (EEC) No. 2503/88⁽⁴⁾;

(1) 1992 c. 48.

(2) 1979 c. 2.

(3) 1983 c. 55.

(4) OJ No. L225, 15.8.88, p. 1.

- “duty” includes any duty of customs or excise and any agricultural levy;
- “excise duty point” has the same meaning as in section 1(1) of the 1979 Act⁽⁵⁾;
- “excise warehouse” has the same meaning as in section 1(1) of the 1979 Act;
- “free zone” has the same meaning as in Article 4(a) of Council Regulation (EEC) No. 2504/88⁽⁶⁾;
- “goods in temporary storage” has the same meaning as in Article 16 of Council Regulation (EEC) No. 4151/88⁽⁷⁾;
- “means of transport” has the same meaning as in Article 1(2)(f) of Council Regulation (EEC) No. 1855/89⁽⁸⁾;
- “non-Community goods” has the same meaning as in Article 1(2)(f) of Council Regulation (EEC) No. 4151/88;
- “suspension arrangements” has the same meaning as references to that expression have for the purposes of section 1 of the Act.

Commencement

3. The provisions of the Act specified in the first column of the Schedule to this Order shall, insofar as they are not already in force, come into force on 1st January 1993.

Transitional Provisions relating to Value Added Tax

4.—(1) Subject to the following provisions of this article and except where article 5 below applies, none of the amendments to the 1983 Act made by the provisions brought into force by this Order shall have effect in relation to any importation of goods where—

- (a) a relevant import arrangement applies to the goods before 1st January 1993; and
- (b) that relevant import arrangement has not ceased to apply to the goods before 1st January 1993.

(2) In paragraph (1) above and articles 5 and 7 below—

“relevant import arrangement” means any of the following circumstances applicable to the importation of the goods:

- (a) the goods are Community transit goods;
- (b) the goods are put in a customs warehouse or an excise warehouse;
- (c) the goods are moved into a free zone;
- (d) the goods are goods in temporary storage;
- (e) the tax chargeable on the importation of the goods is relieved by virtue of the Value Added Tax (Temporarily Imported Goods) Relief Order 1986⁽⁹⁾;
- (f) the goods are the subject of a Community external transit operation where the goods were dispatched or their transport commenced before 1st January 1993;
- (g) the goods are the subject of a Community internal transit operation where the goods were dispatched or their transport commenced before 1st January 1993 for the purpose of delivering them to the recipient of a supply of the goods which is—
 - (i) treated as taking place before 1st January 1993;

⁽⁵⁾ The definition of “excise duty point” is inserted by paragraph 1 of Schedule 1 to the Act.

⁽⁶⁾ OJ No. L225, 15.8.88, p. 8.

⁽⁷⁾ OJ No. L367, 31.12.88, p. 1.

⁽⁸⁾ OJ No. L186, 30.6.89, p. 8.

⁽⁹⁾ S.I. 1986/1989.

- (ii) made for a consideration; and
- (iii) made by a taxable person in the course or furtherance of a business carried on by him; or
- (h) the payment of any duty or tax is relieved or suspended, or would be if the goods were imported from a place outside the member States, by virtue of—
 - (i) the Customs and Excise Duties (Personal Reliefs for Goods Temporarily Imported) Order 1983⁽¹⁰⁾;
 - (ii) the Temporary Importation (Commercial Vehicles and Aircraft) Regulations 1961⁽¹¹⁾;
 - (iii) regulation 44 of the Value Added Tax (General) Regulations 1985⁽¹²⁾; or
 - (iv) Council Regulation (EEC) No. 3312/89⁽¹³⁾.

5.—(1) Where this article applies, the goods shall be treated as having been imported from a place outside the member States within the meaning of section 2B of the 1983 Act⁽¹⁴⁾ whether or not they would otherwise be treated as having been so imported.

(2) This article applies where at any time after 31st December 1992 the relevant import arrangement which applied to the goods before 1st January 1993 has ceased to apply to them because—

- (a) any duty or tax which was or would have been relieved or suspended from payment by virtue of a relevant import arrangement has or would have become payable;
 - (b) the goods have become liable to forfeiture by reason of—
 - (i) the breach of any condition; or
 - (ii) the commission of any offence,relating to the relevant import arrangement; or
 - (c) for any other reason, the circumstances described in article 4(2) above which were applicable to the importation no longer apply.
- (3) Where this article applies and the relevant import arrangement ceased to apply—
- (a) at a time when the goods were not in the United Kingdom;
 - (b) by reason of the export of the goods to a place outside the member States;
 - (c) to goods, other than a means of transport, which had been imported from another member State and—
 - (i) which were subject to a relevant import arrangement within article 4(2)(e) or (h) above; and
 - (ii) which have been exported to the member State from which they were imported and returned to the person who exported them; or
 - (d) to goods consisting of a means of transport which were subject to a relevant import arrangement within article 4(2)(e) or (h) above and—

⁽¹⁰⁾ S.I. 1983/1829; relevant amendments were made by S.I. 1991/1293.

⁽¹¹⁾ S.I.1961/1523.

⁽¹²⁾ S.I. 1985/886.

⁽¹³⁾ OJ No. L321, 4.11.89, p. 5.

⁽¹⁴⁾ Section 2B is inserted by section 14(2) of and paragraph 3 of Schedule 3 to the Act.

- (i) they have borne in their member State of origin or exportation the turnover or consumption taxes (including value added tax) to which goods of that class or description are normally liable and have not by reason of their exportation been subject to any exemption from, or refund of, value added tax;
- (ii) they were first used before 1st January 1985; or
- (iii) their value does not exceed £4,000,

no tax shall be chargeable in respect of the importation which is treated as having occurred by virtue of paragraph (1) above.

(4) Where this article applies in respect of goods which have been imported from another member State and—

- (a) tax is chargeable in respect of the importation which is treated as having occurred by virtue of paragraph (1) above; and
- (b) had the goods been imported before 1st January 1993 and had a relevant import arrangement not applied to them, relief would have been available by virtue of the Value Added Tax (Goods Imported for Private Purposes) Order 1988⁽¹⁵⁾ so as to reduce the amount of tax which would have been payable,

the tax chargeable shall be that reduced amount.

(5) This article shall also apply when goods which were delivered before 1st January 1993 to the recipient of a supply of those goods which was made in another member State are used in the United Kingdom and—

- (a) no value added tax was chargeable in that member State in respect of that supply by reason of the export or intended export of the goods from that member State; and
- (b) the goods were not imported before 1st January 1993.

6.—(1) Subject to paragraph (2) below, where article 5 above applies and the goods were imported by a taxable person in the course of a business carried on by him, he shall account for the tax chargeable in the return for the prescribed accounting period in which the importation is treated as having occurred.

(2) Paragraph (1) above shall not apply where—

- (a) article 5 above applies by reason of the removal of the goods from an excise warehouse and the person removing them is not the person who put them in the warehouse;
- (b) the goods are non-Community goods; or
- (c) the goods are chargeable with excise duty on their importation and—
 - (i) the excise duty point is not fixed for a time later than the time when the goods became chargeable with the duty; or
 - (ii) where no excise duty point has been fixed, no suspension arrangements applied to the goods.

7. Without prejudice to sections 16 and 23 of the Interpretation Act 1978⁽¹⁶⁾, where—

- (a) any provision of an order or regulations confers any right or power, or imposes any obligation, liability or condition, in relation to a relevant import arrangement; and
- (b) that provision is amended or revoked with effect from 1st January 1993,

it shall be treated for the purposes of articles 4 to 6 above as continuing in force and as if the amendment or revocation had not been made.

⁽¹⁵⁾ S.I. 1988/1174.

⁽¹⁶⁾ 1978 c. 30.

New King's Beam House,
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17th December 1992

M. J. Eland
Commissioner of Customs and Excise

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 3

<i>Provisions of the Act</i>	<i>Subject matter of provisions</i>
Section 1(5) and Schedule 1, except paragraphs 9 to 11	Excise duty: Powers to fix excise duty point
Section 14 and Schedule 3	Value added tax; Abolition fiscal frontiers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st January 1993 those provisions of the Finance (No. 2) Act 1992 relating to value added tax and, with certain exceptions, those relating to excise duty, which have not been brought into force by previous commencement orders.

The transitional provisions of this Order implement Article 28n of the Sixth Council Directive [77/388/EEC](#) (OJ No. L145, 13.6.77, p. 1), as amended. They specify the arrangements required in order to effect the transition to the changes to the value added tax system brought about by Council Directive [91/680/EEC](#) (OJ No. L376, 31.12.91, p. 1), which amended the Sixth Council Directive so as to bring about the abolition of fiscal frontiers from 1st January 1993.

Article 4 applies to goods which at midnight on 31st December 1992 are either held in the United Kingdom under import arrangements involving relief from or suspension of value added tax, or are already en route to the United Kingdom under a transit arrangement.

The effect of article 5 is that if such goods are subsequently removed from the relevant arrangements while in the United Kingdom, they will be treated for value added tax purposes as having been imported from outside the Community and as subject to tax accordingly. It also specifies the circumstances in which no tax or a reduced amount will be chargeable on such an importation. Special provision is made in respect of importations of goods purchased tax free in another member State.

Article 6 provides that where an importation of goods is treated as having taken place under the provisions of this Order, and the goods have Community status, taxable persons shall, with certain specified exceptions, account for the tax due on the importation by including the tax in the return covering the date upon which the importation is treated as having taken place.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
s.14(2) (partially) and paras. 12 and 61(3) of Sch. 3, s.16(1) (partially) and (2) and (3)	1.8.92	1992/1867

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
s.16(1) (partially) and (4) and (5)	1.1.93	1992/1867
s.62	6.4.93	1992/2642
s.1(1) to (4), (6) and (7) s.2 s.1(5) and Sch. 1 (partially), s.14(2) and Sch. 3 (partially)	1.12.92	1992/2979
s.3 and Sch. 2 (partially)	9.12.92	1992/3104