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STATUTORY INSTRUMENTS

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**1995 No. 1269**

**VALUE ADDED TAX**

**The Value Added Tax (Cars) (Amendment) Order 1995**

*Made* - - - - *10th May 1995*  
*Laid before the House of*  
*Commons* - - - - *10th May 1995*  
*Coming into force* - - *1st June 1995*

The Treasury, in exercise of the powers conferred on them by sections 5(3) and (5), 11(4), 43(2) and 50A of the Value Added Tax Act 1994<sup>(1)</sup> 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 (Cars)(Amendment) Order 1995 and shall come into force on 1st June 1995.

2. The Value Added Tax (Cars) Order 1992<sup>(2)</sup> shall be amended as follows.

3. In article 2—

(a) in the definition of “the Act”, for “1983” there shall be substituted “1994”;

(b) after the definition of “the Act” there shall be inserted—

““the Manx Act” means the Value Added Tax and Other Taxes Act 1973<sup>(3)</sup>

(c) after the definition of motor car there shall be inserted—

““auctioneer” means a person who sells or offers for sale goods at any public sale where persons become purchasers by competition, being the highest bidders.”

4. In article 4—

(a) in paragraph (1)(c) for “14(10)” there shall be substituted “25(7)”

(b) in paragraph (2) for “8A(1)(a)” there shall be substituted “11(1)(a)”

(c) after paragraph (1)(c) there shall be inserted—

“(d) services in connection with a supply of a used motor car provided by an agent acting in his own name to the purchaser of the motor car the consideration for

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<sup>(1)</sup> 1994 c. 23; section 50A was inserted by section 24 of the Finance Act 1995 (c. 4).

<sup>(2)</sup> S.I.1992/3122.

<sup>(3)</sup> Act of Tynwald 1973 (c. 1).

which is taken into account by virtue of article 8(8) below in calculating the price at which the agent sold the motor car.

- (e) services in connection with the sale of a used motor car provided by an auctioneer acting in his own name to the vendor or the purchaser of the motor car the consideration for which is taken into account by virtue of article 8(9) below in calculating the price at which the auctioneer obtained (or as the case may be) sold the motor car.”

5. In article 5(2)(c) for “14 and 15” there shall be substituted “25 and 26”.

6. In article 7 for “29” there shall be substituted “43”.

7. For article 8 there shall be substituted—

“8.—(1) Subject to complying with such conditions (including the keeping of such records and accounts) as the Commissioners may direct in a notice published by them for the purposes of this Order or may otherwise direct, and subject to paragraph (3) below, where a person supplies a used motor car which he took possession of in any of the circumstances set out in paragraph (2) below, he may opt to account for the VAT chargeable on the supply on the profit margin<sup>(4)</sup> on the supply instead of by reference to its value.

(2) The circumstances referred to in paragraph (1) above are that the taxable person took possession of the motor car pursuant to—

- (a) a supply in respect of which no VAT was chargeable under the Act or under Part I of the Manx Act;
- (b) a supply on which VAT was chargeable on the profit margin in accordance with paragraph (1) above, or a corresponding provision made under the Manx Act or a corresponding provision of the law of another member State;
- (c) a transaction which was treated by virtue of any Order made under Section 5(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.

(3) This article does not apply to—

- (a) a supply which is a letting on hire;
- (b) the supply by any person of a motor car which was produced by him, if it was neither previously supplied by him in the course or furtherance of any business carried on by him nor treated as so supplied by virtue of article 5 above;
- (c) any supply if an invoice or similar document showing an amount as being VAT or as being attributable to VAT is issued in respect of the supply;
- (d) save where it has previously been treated as supplied by him by virtue of article 6 above, the supply by a taxable person of a motor car where its supply to him or its acquisition by him from another member State, or its importation by him, was primarily for any of the following purposes—
  - (i) being provided by him for hire with the services of a driver for the purpose of carrying passengers;
  - (ii) being provided by him for self-drive hire;
  - (iii) being used as a vehicle in which instruction in the driving of a motor car is to be given by him; or

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(4) Profit margin is defined for these purposes in section 50A(4) of the [Value Added Tax Act \(c.23\)](#) which was inserted by section 24(1) of the Finance Act 1995 (c. 4).

- (iv) the letting on hire to a person who is not a taxable person on condition that he uses the motor car primarily for one of the purposes described in paragraphs (i) to (iii).
- (4) For the purposes of paragraph (3)(d) above “self-drive hire” means hire where the hirer is the person normally expected to drive the motor car and the period of hire to each hirer, together with the period of hire of any other motor car expected to be hired to him by the taxable person—
- (a) will normally be less than 30 consecutive days; and
- (b) will normally be less than 90 days in any period of 12 months.
- (5) Subject to paragraph (6) below, for the purposes of determining the profit margin—
- (a) the price at which the motor car was obtained shall be calculated as follows—
- (i) (where the taxable person took possession of the used motor car pursuant to a supply) in the same way as the consideration for the supply would be calculated for the purposes of the Act;
- (ii) (where the taxable person is a sole proprietor and the used motor car was supplied to him in his private capacity) in the same way as the consideration for the supply to him as a private individual would be calculated for the purposes of the Act;
- (b) the price at which the motor car is sold shall be calculated in the same way as the consideration for the supply would be calculated for the purposes of the Act.
- (6) Subject to paragraph (7) below, where the taxable person is an agent acting in his own name the price at which the motor car was obtained shall be calculated in accordance with paragraph 5(a) above but the selling price calculated in accordance with paragraph 5(b) above shall be increased by the amount of any consideration payable to the taxable person in respect of services supplied by him to the purchaser in connection with the supply of the motor car.
- (7) Instead of calculating the price at which the motor car was obtained or supplied in accordance with paragraph (6) above, an auctioneer acting in his own name may—
- (a) calculate the price at which the motor car was obtained by deducting from the successful bid the consideration for any services supplied by him to the vendor in connection with the sale of the motor car;
- (b) calculate the price at which the motor car was supplied by adding to the successful bid the consideration for any supply of services by him to the purchaser in connection with the sale of the motor car,
- in either (or both) cases excluding the consideration for supplies of services that are not chargeable to VAT.”

10th May 1995

*Derek Conway*  
*Andrew McKay*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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

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## 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, 13.7.77, p. 1) as amended by the directive of that Council dated 14th February 1994, No. [94/5/EC](#) (OJ No. L60, 3.3.94, p. 16) effective from 1st January 1995, member States are required to provide, for certain goods, a scheme of accounting on which VAT is calculated by reference to the profit margin (the margin scheme). The directives enable the United Kingdom to allow taxable persons to continue to calculate VAT by reference to the profit margin on certain goods and also to extend this facility to other goods, all of which become subject to conditions contained in the directives. One of these conditions is that goods supplied under the margin scheme are always taxable in the member State of origin and thus the normal VAT rules for intra-EC transactions do not apply.

This order amends the [Value Added Tax \(Cars\) Order 1992 \(No. 1322\)](#) (the 1992 Order).

Article 3 amends article 2 of the 1992 order by updating certain references to legislation and by inserting a new definition of “auctioneer”.

Article 4 amends article 4 of the 1992 order by updating certain references to legislation and inserting a new provision which excludes from the scope of the tax services in connection with a supply of a motor car provided by an agent acting in his own name to the purchaser where the consideration for those services is taken into account in calculating the profit margin on the supply of the motor car. It also inserts a new provision which excludes from the scope of the tax services in connection with a supply of a motor car provided by an auctioneer acting in his own name to the purchaser or the vendor where the consideration for those services is taken into account when calculating the profit margin on the supply of the motor car.

Article 5 amends article 5 of the 1992 order by updating certain references to legislation.

Article 6 amends article 7 of the 1992 order by updating certain references to legislation.

Article 7 re-enacts, with amendments, article 8 of the 1992 order. It allows taxable persons to opt to use the margin scheme in the circumstances provided for in the above directives for supplies of second-hand motor cars. It sets out how the profit margin on supplies of motor cars is to be calculated and provides variations from the normal rules for agents, and auctioneers in particular, who act in their own names.