

Order made by the Treasury, laid before the House of Commons under section 45(3) of the Value Added Tax Act 1983, for approval by a resolution of that House within twenty-eight days beginning with the day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

1992 No. 1510

VALUE ADDED TAX

The Value Added Tax (Payments on Account) Order 1992

<i>Made</i>	- - - -	<i>24th June 1992</i>
<i>Laid before the House of Commons</i>	- - - -	<i>25th June 1992</i>
<i>Coming into force</i>	- -	<i>31st July 1992</i>

Whereas the Treasury consider it desirable to make an order under section 38C of the Value Added Tax Act 1983⁽¹⁾ in the interests of the national economy:

Now, therefore, the Treasury, in exercise of the powers conferred on them by section 38C(1), (2), (4) and (5) of the Value Added Tax Act 1983 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 (Payments on Account) Order 1992 and shall come into force on 31st July 1992.

Interpretation

2. In this Order—

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

“Controller” means the Controller, Customs and Excise, Value Added Tax Central Unit.

Payments on account

3. A taxable person of a description falling within article 4 below shall be under a duty to pay, on account of any tax he may become liable to pay in respect of each prescribed accounting period exceeding one month beginning on or after 1st October 1992, amounts (in this Order referred

(1) 1983 c. 55; section 38C was inserted by section 6 of the Finance Act 1992 (c. 20).

to as “payments on account”) determined in accordance with this Order and at such times as so determined;

provided that where such a taxable person has a prescribed accounting period exceeding one month which begins on or after 2nd September 1992 and which relates to the tax period reference 12/92 shown in the certificate of registration issued to him, he shall have a like duty to pay payments on account also in respect of that prescribed accounting period.

Persons to whom this Order applies

4. Save as the Commissioners may otherwise allow, a taxable person falls within this article if the total amount of tax which he was liable to pay in respect of the period of one year ending on the last day of his last prescribed accounting period ending before 1st April 1991 exceeded £2,000,000, except that where in the year ending 31st March 1991 a prescribed accounting period of the taxable person did not begin on the first day or end on the last day of a month, the period of one year shall, for the purpose of this article, be regarded as having comprised those prescribed accounting periods which related to the tax period references shown in the certificate of registration issued to him and falling within the year ending 31st March 1991.

Time for payment

5. Subject to article 6 below and save as the Commissioners may otherwise allow, in respect of each prescribed accounting period a payment on account shall be paid to the Controller not later than—

- (a) the last day of the month next following the end of the first month included therein, and
- (b) the last day of the month next following the end of the second month included therein.

6. Save as the Commissioners may otherwise allow, where a prescribed accounting period does not begin on the first day or end on the last day of a month—

- (a) the first payment on account shall be paid not later than the last day of the month next following the end of the first complete month included therein, and
- (b) the second payment on account shall be paid not later than the last day of the month next following the end of the second complete month included therein, except that where—
 - (i) there is only one complete month the first payment on account shall be paid not later than the last day of that month and the second payment on account shall be paid not later than the end of the prescribed accounting period, or
 - (ii) a prescribed accounting period comprises an incomplete month followed by two complete months the first payment on account shall be paid not later than the end of the first complete month and the second payment on account shall be paid not later than the end of the second complete month, or
 - (iii) a prescribed accounting period comprises an incomplete month followed by two complete months and an incomplete month the first payment on account shall be paid not later than the end of the first complete month and the second payment on account shall be paid not later than the end of the second complete month.

Calculation of the payments on account

7. Subject to articles 8, 9 and 10 below, the amount of each payment on account shall equal one twelfth of the total amount of tax, excluding the tax on goods imported from countries other than member States, which the taxable person was liable to pay in respect of the period (in this Order referred to as “the reference period”)—

- (a) 1st April 1991 to 31st March 1992 where the taxable person has a prescribed accounting period beginning in October 1992,
- (b) 1st May 1991 to 30th April 1992 where the taxable person has a prescribed accounting period beginning in November 1992, and
- (c) 1st June 1991 to 31st May 1992 where the taxable person has a prescribed accounting period beginning in December 1992.

8. Where in the period of the year mentioned in either paragraph (a), (b) or (c) of article 7 above a prescribed accounting period of the taxable person did not begin on the first day or end on the last day of a month, the reference period shall, for the purpose of article 7 above, be regarded as having comprised those prescribed accounting periods which related to the tax period references shown in the certificate of registration issued to him and falling within the period of the year mentioned in paragraph (a), (b) or (c) of article 7 as appropriate.

9. The amount of any payment on account which, in accordance with article 5 or 6, is payable in November 1992, December 1992 or January 1993 shall be determined in accordance with article 7 or 8 above, except that tax which the taxable person was liable to pay on goods imported from member States shall be excluded from the calculation of the total amount of tax.

10. If—

- (a) the total amount of tax, excluding the tax on goods imported from countries other than member States, which the taxable person was liable to pay in respect of any period of one year ending after the end of his reference period was less than 80 per cent. of the total amount of tax referred to in article 7 above, or
- (b) where the period of one year has not ended, the Commissioners are satisfied that the total amount of tax, excluding the tax on goods imported from countries other than member States, which the taxable person will be liable to pay in that year will be less than 80 per cent. of the total amount of tax referred to in that article,

then, with effect from the date of the written approval by the Commissioners of a written application by the taxable person to that effect, the lesser amount shall be substituted for the greater amount and the amount of each payment on account beginning with the first payment on account payable after the date of that approval shall, subject to article 9 above, equal one twelfth of that lesser amount.

Business carried on in divisions

11. Save as the Commissioners may otherwise allow, where the registration under the Act of a body corporate is in the names of divisions under section 31(1) of the Act a division shall be under a duty to pay a payment on account under this Order if—

- (a) the amount of tax which the division was liable to pay in respect of the period specified in article 4 above exceeded £2,000,000, or
- (b) the amount of tax which the divisions were liable to pay in respect of that period in aggregate exceeded £2,000,000.

12. For the purpose of calculating the amount of each payment on account payable by a division of a body corporate under this Order, articles 7 to 10 shall apply in relation to the division as they apply in relation to a taxable person.

Groups of companies

13. This Order shall apply in relation to any bodies corporate which are treated as members of a group under section 29 of the Act as if those bodies were one taxable person and where there is a duty to pay a payment on account it shall be the responsibility of the representative member, except that

in default of payment by the representative member it shall be the joint and several responsibility of each member of the group.

14. Save as the Commissioners may otherwise allow, where any bodies corporate are treated as members of a group under section 29 of the Act and as such they fall within article 4 above, and, pursuant to an application under section 29(5) of the Act, from the beginning of a prescribed accounting period—

- (a) a body corporate is excluded from the bodies so treated, or
- (b) the bodies corporate are no longer treated as members of a group,

the body corporate or each of the bodies corporate, as the case may be, shall from that date be treated as falling within article 4 above.

15. Where, under article 14 above, a body corporate is treated as falling within article 4 above, the amount of each payment on account shall equal such amount as would have been payable by it as determined in accordance with articles 7 to 10 above as if it had always fallen within article 4 above other than as a member of a group and had prescribed accounting periods identical to those of the group of which it had been a member.

24th June 1992

Tim Wood
Gregory Knight
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which is made under section 38C of the Value Added Tax Act 1983 (c. 55), provides that certain taxable persons shall, in respect of each of their tax periods beginning on or after 2nd September 1992, make payments on account of any tax they may become liable to pay.

Unless the Commissioners of Customs and Excise otherwise allow, the Order applies to a taxable person whose VAT liability in the period of the year specified in article 4 exceeded £2,000,000.

Article 5 provides that the payments are to be made monthly but special provision is made in article 6 for taxable persons who have tax periods which do not start on the first, or end on the last, day of the month.

Calculation of the payments is determined in accordance with articles 7, 8 and 9 and provision for reduction of payments in certain circumstances is made in article 10.

Special provision is made for the application of the Order in relation to a body corporate whose VAT registration is in the names of divisions under section 31 of the Value Added Tax Act 1983 (articles 11 and 12) and bodies corporate which are treated as members of a group under section 29 of that Act (articles 13, 14 and 15).