

This Order supersedes S.I.1992/1510 published on 2nd July 1992 and is being issued free of charge to all known recipients of that Statutory Instrument. 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 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. 1668

VALUE ADDED TAX

The Value Added Tax (Payments on Account) (No.2) Order 1992

<i>Made</i>	- - - -	<i>13th July 1992</i>
<i>Laid before the House of Commons</i>	- - - -	<i>13th July 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) (No.2) 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;

“reference period” has the meaning ascribed to it in article 8 below.

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

Revocation

3. The Value Added Tax (Payments on Account) Order 1992(2) is hereby revoked.

Payments on account

4.—(1) A taxable person of a description falling within article 5 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 to as “payments on account”) determined in accordance with this Order at times so determined.

(2) 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 12/92 to which reference is shown in the certificate of registration issued to him, he shall be under a like duty to make payments on account also in respect of that prescribed accounting period.

Persons to whom this Order applies

5.—(1) Subject to paragraphs (2) and (3) below and article 12 below, a taxable person falls within this article if the total amount of tax which he was liable to pay by reference to the prescribed accounting periods the ends of which fell within 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.

(2) Paragraph (1) above shall not apply to a taxable person if—

- (a) the total amount of tax which he was liable to pay by reference to the prescribed accounting periods the ends of which fell within the period of one year ending on the last day of his last prescribed accounting period ending before 1st April 1990 did not exceed £2,000,000, and
- (b) the total amount of tax which he was liable to pay by reference to the prescribed accounting periods the ends of which fell within the period of one year ending on the last day of his last prescribed accounting period ending before 1st April 1992 did not exceed £2,000,000.

(3) Where in any of the years ending 31st March 1990, 31st March 1991 and 31st March 1992 a prescribed accounting period of the taxable person did not begin on the first day or did not 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 periods ending within the years ending 31st March 1990, 31st March 1991 and 31st March 1992 respectively to which references are shown in the certificate of registration issued to him.

Time for payment

6. Subject to article 7 below, in respect of each prescribed accounting period a payment on account shall be made to the Controller not later than—

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

7. Where a prescribed accounting period does not begin on the first day or does not end on the last day of a month—

- (a) the first payment on account shall be made 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 made not later than the last day of the month next following the end of the second complete month included therein,
- except that where—
- (i) a prescribed accounting period does not comprise more complete months than one, the first payment on account shall be made not later than the last day of that month and the second payment on account shall be made 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 made not later than the end of the first complete month and the second payment on account shall be made 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 made not later than the end of the first complete month and the second payment on account shall be made not later than the end of the second complete month.

Calculation of the payments on account

8. Subject to articles 9, 10 and 11 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 by reference to the prescribed accounting periods the ends of which fell within 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.

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

10. The amount of any payment on account which, in accordance with article 6 or 7 above, falls to be made in November 1992, December 1992 or January 1993 shall be determined in accordance with article 8 or 9 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.

11. 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 by reference to the prescribed accounting periods the ends of which fell within 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 8 above, or
- (b) where such a 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 by reference to the prescribed

accounting periods the ends of which fall within 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 which falls to be made after the date of that approval shall, subject to article 10 above, equal one twelfth of that lesser amount.

Business carried on in divisions

12.—(1) Subject to paragraphs (3) and (4) below, where the registration under the Act of a body corporate is and was throughout the prescribed accounting periods mentioned in article 5(1) above in the names of divisions under section 31(1) of the Act and those divisions are the same divisions, that body corporate shall not be under a duty to make payments on account by virtue of falling within article 5 above but shall be under a duty to make payments on account by reference to the business of any division if the total amount of tax which it was liable to pay in respect of the specified accounting periods and which was referable to the business of that division exceeded £2,000,000.

(2) Where a relevant division has a prescribed accounting period exceeding one month which begins on or after 2nd September 1992 and which relates to the tax period 12/92 to which reference is shown in the certificate of registration issued to it, the body corporate shall be under a like duty to make payments on account also in respect of that prescribed accounting period.

(3) A division shall not be a relevant division if—

- (a) the total amount of tax which was referable to that division's business in respect of prescribed accounting periods the ends of which fell within the period of one year ending on the last day of its last prescribed accounting period ending before 1st April 1990 did not exceed £2,000,000, and
- (b) the total amount of tax which was referable to that division's business in respect of prescribed accounting periods the ends of which fell within the period of one year ending on the last day of its last prescribed accounting period ending before 1st April 1992 did not exceed £2,000,000.

(4) Article 5(3) above shall apply for the purposes of this article as if for the references therein to the taxable person there were substituted references to a relevant division.

(5) Where payments on account fall to be made under this article, they shall be calculated and made separately in the case of each relevant division as if it were a taxable person and shall be remitted to the Controller through that division.

(6) In relation to a body corporate to which this article applies, references in article 11 above to—

- (a) the total amount of tax which a taxable person was or will be liable to pay shall be construed as references to the total amount of such tax referable to the business of a relevant division; and
- (b) an application by the taxable person shall be construed as references to an application by the division in respect of which the application is made.

(7) In this article—

“relevant division” means a division by reference to the business of which a body corporate is under a duty to make payments on account by virtue of paragraph (1) above;

“specified accounting periods” means in relation to a relevant division its prescribed accounting periods the ends of which fell within the period of one year ending on the last day of its last prescribed accounting period ending before 1st April 1991.

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 make 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.

13th July 1992

Irvine Patnick
Tim Boswell
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.

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), revokes and replaces the Value Added Tax (Payments on Account) Order 1992 (S.I.1992/1510) which did not come into force. It 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.

The Order applies to a taxable person whose VAT liability in the period of one year specified in article 5 (which will normally be a year ending in January to March 1991) exceeded £2,000,000, unless in the year immediately preceding and in the year immediately following that period that liability did not exceed £2,000,000.

Article 6 provides that the payments are to be made monthly but special provision is made in article 7 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 8, 9 and 10 but provision is made in article 11 for reduction of payments in circumstances described in that article.

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 (article 12) and to bodies corporate which are treated as members of a group under section 29 of that Act (article 13).