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STATUTORY INSTRUMENTS

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**1992 No. 3122**

**VALUE ADDED TAX**

**The Value Added Tax (Cars) 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) and 29(2) of the Value Added Tax Act 1983<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) Order 1992 and shall come into force on 1st January 1993.

**Commencement Information**

II Art. 1 in force at 1.1.1993, see [art. 1](#)

**Interpretation**

2. In this Order—

“the Act” means the Value Added Tax Act [<sup>F1</sup>1994];

[<sup>F2</sup>“the Manx Act” means [<sup>F3</sup>the Value Added Tax Act 1996]];

<sup>F4</sup>  
...

“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;

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(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; sub-sections (3) and (4) of section 18 were amended by sub-paragraphs (1) and (2) of paragraph 19 of that Schedule.

*Status: Point in time view as at 01/12/1999.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax (Cars) Order 1992. (See end of Document for details)*

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

<sup>F5</sup>“Motor car” means any motor vehicle of a kind normally used on public roads which has three or more wheels and either—

- (a) is constructed or adapted solely or mainly for the carriage of passengers; or
- (b) has to the rear of the driver’s seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows;

but does not include—

- (i) vehicles capable of accommodating only one person;
- (ii) vehicles which meet the requirements of Schedule 6 to the Road Vehicles (Construction and Use) Regulations 1986 and are capable of carrying twelve or more seated persons;
- (iii) vehicles of not less than three tonnes unladen weight (as defined in the Table to regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986);
- (iv) vehicles constructed to carry a payload (the difference between a vehicle’s kerb weight (as defined in the Table to regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986) and its maximum gross weight (as defined in that Table)) of one tonne or more;
- (v) caravans, ambulances and prison vans;
- (vi) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose;]

<sup>F6</sup>“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.]

#### Textual Amendments

- F1** Word in [art. 2](#) substituted (1.6.1995) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1995 \(S.I. 1995/1269\)](#), arts. 1, [3\(a\)](#)
- F2** Words in [art. 2](#) inserted (1.6.1995) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1995 \(S.I. 1995/1269\)](#), arts. 1, [3\(b\)](#)
- F3** Words in [art. 2](#) substituted (18.3.1998) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1998 \(S.I. 1998/759\)](#), arts. 1, [3](#)
- F4** Words in [art. 2](#) omitted (1.12.1999) by virtue of [The Value Added Tax \(Cars\) \(Amendment\) Order 1999 \(S.I. 1999/2832\)](#), arts. 1(2), [3\(a\)](#)
- F5** Words in [art. 2](#) substituted (1.12.1999) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1999 \(S.I. 1999/2832\)](#), arts. 1(2), [3\(b\)](#)
- F6** Words in [art. 2](#) inserted (1.6.1995) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1995 \(S.I. 1995/1269\)](#), arts. 1, [3\(c\)](#)

#### Commencement Information

- I2** Art. 2 in force at 1.1.1993, see [art. 1](#)

## 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.

### Commencement Information

I3 Art. 3 in force at 1.1.1993, see [art. 1](#)

## Treatment of transactions

4.—(1) [<sup>F7</sup>Subject to paragraphs (1A) to (2) below,] 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 a used motor car by a person who repossessed it under the terms of a finance agreement, where the motor car is in the same condition as it was in when it was repossessed;
- (b) the disposal of a used motor car by an insurer who has taken it in the settlement of a claim under a policy of insurance, where the motor car is disposed of in the same condition as it was in when it was so taken;
- (c) the disposal of a motor car for no consideration <sup>F8</sup>....
- [<sup>F9</sup>(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 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];
- [<sup>F10</sup>(f) a relevant supply of services by a taxable person to whom a motor car has been let on hire or supplied or by whom a motor car has been acquired from another member State or imported.]

[<sup>F11</sup>(1A) Paragraph (1) above shall not apply in relation to a case falling within paragraph (1)(a) to (c) above unless the tax on any previous supply, acquisition or importation was wholly excluded from credit under section 25 of the Act.

(1B) Paragraph (1) above shall not apply in relation to a case falling within paragraph (1)(f) above unless the tax on any previous letting on hire, supply, acquisition or importation was wholly or partly excluded from credit under section 25 of the Act.

(1C) For the purposes of paragraph (1)(f) above a relevant supply of services is—

- (a) the letting on hire of a motor car to any person for no consideration or for a consideration which is less than that which would be payable in money if it were a commercial transaction conducted at arms length; or
- (b) the making available of a motor car (otherwise than by letting it on hire) to any person (including, where the taxable person is an individual, himself, and where the taxable person is a partnership, a partner) for private use, whether or not for a consideration.]

(2) Nothing in paragraph (1)(a) or (b) above shall be construed as meaning that a transaction is not a supply for the purposes of section [<sup>F12</sup>11(1)(a)] of the Act(3).

(3) Section 8A was inserted by the Finance (No. 2) Act 1992 (c. 48), section 14 and Schedule 3 paragraph 10.

*Status: Point in time view as at 01/12/1999.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax (Cars) Order 1992. (See end of Document for details)*

### Textual Amendments

- F7** Words in art. 4(1) inserted (1.8.1995) by [The Value Added Tax \(Cars\) \(Amendment\) \(No. 2\) Order 1995 \(S.I. 1995/1667\)](#), arts. 1, **3(a)**
- F8** Words in art. 4(1)(c) omitted (1.8.1995) by virtue of [The Value Added Tax \(Cars\) \(Amendment\) \(No. 2\) Order 1995 \(S.I. 1995/1667\)](#), arts. 1, **3(b)**
- F9** Art. 4(1)(d)(e) inserted (1.6.1995) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1995 \(S.I. 1995/1269\)](#), arts. 1, **4(c)**
- F10** Art. 4(1)(f) added (1.8.1995) by [The Value Added Tax \(Cars\) \(Amendment\) \(No. 2\) Order 1995 \(S.I. 1995/1667\)](#), arts. 1, **3(c)**
- F11** Art. 4(1A)-(1C) inserted (1.8.1995) by [The Value Added Tax \(Cars\) \(Amendment\) \(No. 2\) Order 1995 \(S.I. 1995/1667\)](#), arts. 1, **3(d)**
- F12** Word in art. 4(2) substituted (1.6.1995) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1995 \(S.I. 1995/1269\)](#), arts. 1, **4(b)**

### Commencement Information

- I4** Art. 4 in force at 1.1.1993, see [art. 1](#)

[<sup>F13</sup>4A. Paragraph 5(4) of Schedule 4 to the Act shall not apply in relation to a motor car to which [<sup>F14</sup>article 5] below applies which is used or made available in circumstances where, but for the operation of that paragraph, it would be treated by virtue of [<sup>F15</sup>that article] as supplied to and by a taxable person.]

### Textual Amendments

- F13** Art. 4A inserted (1.8.1995) by [The Value Added Tax \(Cars\) \(Amendment\) \(No. 2\) Order 1995 \(S.I. 1995/1667\)](#), arts. 1, **4**
- F14** Words in art. 4A substituted (1.12.1999) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1999 \(S.I. 1999/2832\)](#), arts. 1(2), **4(a)**
- F15** Words in art. 4A substituted (1.12.1999) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1999 \(S.I. 1999/2832\)](#), arts. 1(2), **4(b)**

### Self-supplies

- [<sup>F16</sup>5.—(1) This article applies to any motor car—
- (a) which has been produced by a taxable person otherwise than by the conversion of a vehicle obtained by him;
  - (b) which has been produced by the taxable person by the conversion of another vehicle (whether a motor car or not) and in relation to which the condition in paragraph (2) below is satisfied; <sup>F17</sup>...
  - (c) which was supplied to, or acquired from another member State or imported by, a taxable person and in relation to which the condition in paragraph (2) below is satisfied [<sup>F18</sup>; or
  - (d) which was transferred to a taxable person as an asset of a business or part of a business in the course of the transfer of that business or part of a business as a going concern—
    - (i) in circumstances where the transfer was treated as neither a supply of goods nor a supply of services by virtue of an Order made or having effect as if made under section 5(3) of the Act;
    - (ii) in the hands of the transferor or any predecessor of his the motor car was one to which this article applied by virtue of sub-paragraph (a), (b) or (c) above; and

(iii) the motor car has not been treated as supplied by virtue of this article to and by the transferor or any of his predecessors.]

(2) The condition referred to in paragraph (1)(b) and (c) above is that the tax on the supply to, or acquisition or importation by, the taxable person of the motor car or the vehicle from which it was converted, as the case may be, was not wholly excluded from credit under section 25 of the Act.

[<sup>F19</sup>(2A) For the purposes of paragraph (1)(d) above a person is a predecessor of a transferor if—

- (a) he transferred the motor car as an asset of a business or part of a business which he transferred as a going concern—
  - (i) to the transferor, or
  - (ii) where the motor car has been the subject of more than one such transfer, to a person who made one of those transfers; and
- (b) the transfer of the motor car was treated as neither a supply of goods nor a supply of services by virtue of any Order made or having effect as if made under section 5(3) of the Act.]

[<sup>F20</sup>(3) Where a motor car to which this article applies—

- (a) has not been supplied by the taxable person in the course or furtherance of a business carried on by him; and
- (b) is used by him such that had it been supplied to, or imported or acquired from another member State by, him at that time his entitlement to credit under section 25 of the Act in respect of the VAT chargeable on such a supply, importation or acquisition from another member State would have been wholly excluded by virtue of article 7 of the Value Added Tax (Input Tax) Order 1992,

it shall be treated for the purposes of the Act as both supplied to him for the purposes of a business carried on by him and supplied by him for the purposes of that business.]]

<sup>F21</sup>6. ....

<sup>F22</sup>6A. ....

7. [<sup>F23</sup>Article 5] above shall apply in relation to any bodies corporate which are treated for the purposes of section [<sup>F24</sup>43] of the Act as members of a group as if those bodies were one person, but any motor car which would fall to be treated as supplied to and by that person shall be treated as supplied to and by the representative member.

#### Textual Amendments

- F16** Art. 5 substituted (1.8.1995) by The Value Added Tax (Cars) (Amendment) (No. 2) Order 1995 (S.I. 1995/1667), arts. 1, 5
- F17** Word in art. 5(1) omitted (1.12.1999) by virtue of The Value Added Tax (Cars) (Amendment) Order 1999 (S.I. 1999/2832), arts. 1(2), 5(a)
- F18** Art. 5(1)(d) and word substituted for words (1.12.1999) by The Value Added Tax (Cars) (Amendment) Order 1999 (S.I. 1999/2832), arts. 1(2), 5(b)
- F19** Art. 5(2A) inserted (1.12.1999) by The Value Added Tax (Cars) (Amendment) Order 1999 (S.I. 1999/2832), arts. 1(2), 6
- F20** Art. 5(3) substituted (1.12.1999) by The Value Added Tax (Cars) (Amendment) Order 1999 (S.I. 1999/2832), arts. 1(2), 7
- F21** Art. 6 omitted (1.12.1999) by The Value Added Tax (Cars) (Amendment) Order 1999 (S.I. 1999/2832), arts. 1(2), 8

Status: Point in time view as at 01/12/1999.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax (Cars) Order 1992. (See end of Document for details)

- F22** Art. 6A omitted (1.12.1999) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1999 \(S.I. 1999/2832\)](#), arts. 1(2), **8**
- F23** Words in [art. 7](#) substituted (1.12.1999) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1999 \(S.I. 1999/2832\)](#), arts. 1(2), **9**
- F24** Word in [art. 7](#) substituted (1.6.1995) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1995 \(S.I. 1995/1269\)](#), arts. 1, **7**

**Commencement Information**

- I5** Art. 5 in force at 1.1.1993, see [art. 1](#)
- I6** Art. 7 in force at 1.1.1993, see [art. 1](#)

**Relief for second-hand motor cars**

[<sup>F25</sup>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 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;

[<sup>F26</sup>(bb) a supply to which the provisions of article 7(4) of the Value Added Tax (Input Tax) Order 1992 applied;]

[<sup>F27</sup>(c) a transaction except one relating to the transfer of the assets of a business or part of a business as a going concern which was treated by virtue of any Order made or having effect as if 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,]

[<sup>F28</sup>(d) a transaction relating to the transfer of the assets of a business or part of a business as a going concern which was treated as neither a supply of goods nor a supply of services if the transferor took possession of the goods in any of the circumstances described in this paragraph.]

(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;

<sup>F29</sup>(d) .....

<sup>F30</sup>(4) .....

(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;
  - <sup>F31</sup>(iii) (where the taxable person took possession of the goods pursuant to a transaction relating to the transfer of the assets of a business or part of a business as a going concern which was treated by virtue of any Order made or having effect as if made under section 5(3) of the Act, or under the corresponding provisions of the Manx Act, as neither a supply of goods nor a supply of services) as being the price at which the earliest of his predecessors obtained the goods;]
- (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 <sup>F32</sup>;
- (c) in relation to any goods, a person is the predecessor of another for the purposes of this article if—
- (i) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;
  - (ii) those assets consisted of or included those goods; and
  - (iii) the transfer of the assets is one falling by virtue of an Order made or having effect as if made under section 5(3) of the Act, or under the corresponding provisions of the Manx Act, to be treated as neither a supply of goods nor a supply of services;
- and the reference in sub-paragraph (a) above to a person's predecessors includes a reference to the predecessors of his predecessors through any number of transfers].
- (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.]

#### **Textual Amendments**

- F25** Art. 8 substituted (1.6.1995) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1995 \(S.I. 1995/1269\)](#), arts. 1, 7
- F26** Art. 8(2)(bb) inserted (1.8.1995) by [The Value Added Tax \(Cars\) \(Amendment\) \(No. 2\) Order 1995 \(S.I. 1995/1667\)](#), arts. 1, **8(a)**
- F27** Art. 8(2)(c) substituted (3.7.1997) by [The Value Added Tax \(Cars\) \(Amendment\) Order 1997 \(S.I. 1997/1615\)](#), arts. 1, 3

**Status:** Point in time view as at 01/12/1999.

**Changes to legislation:** There are currently no known outstanding effects for the The Value Added Tax (Cars) Order 1992. (See end of Document for details)

- F28** Art. 8(2)(d) inserted (3.7.1997) by The Value Added Tax (Cars) (Amendment) Order 1997 (S.I. 1997/1615), arts. 1, **4**
- F29** Art. 8(3)(d) revoked (1.8.1995) by The Value Added Tax (Cars) (Amendment) (No. 2) Order 1995 (S.I. 1995/1667), arts. 1, **8(b)**
- F30** Art. 8(4) revoked (1.8.1995) by The Value Added Tax (Cars) (Amendment) (No. 2) Order 1995 (S.I. 1995/1667), arts. 1, **8(c)**
- F31** Art. 8(5)(a)(iii) inserted (18.3.1998) by The Value Added Tax (Cars) (Amendment) Order 1998 (S.I. 1998/759), arts. 1, **4(1)**
- F32** Art. 8(5)(c) and semicolon inserted (18.3.1998) by The Value Added Tax (Cars) (Amendment) Order 1998 (S.I. 1998/759), arts. 1, **4(2)**

**Commencement Information**

- I7** Art. 8 in force at 1.1.1993, see **art. 1**

*Irvine Patnick*  
*Tim Boswell*  
Two of the Lords Commissioners of Her  
Majesty's Treasury



## SCHEDULE

Article 3

## REVOCATIONS

**Commencement Information****I8** Sch. in force at 1.1.1993, see **art. 1**

Provision	Extent of Revocation
<a href="#">The Value Added Tax (Cars) Order 1980 (No. 442)</a>	The whole Order insofar as it contains provisions which were subject to annulment in pursuance of a resolution of the House of Commons by virtue of section 43(3) of the Finance Act 1972 <sup>(4)</sup>
<a href="#">The Value Added Tax (Cars) (Amendment) Order 1984 (No. 33)</a>	The whole Order
<a href="#">The Value Added Tax Cars (Amendment) Order 1989 (No. 959)</a>	The whole Order
<a href="#">The Value Added Tax (Cars) (Amendment) Order 1990 (No. 315)</a>	The whole Order
<a href="#">The Value Added Tax (Cars) (Amendment) Order 1992 (No. 627)</a>	The whole Order insofar as not previously revoked

**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](#) (O.J. No. L145, 13.6.1977, p.1) as amended by the directive of that Council dated 16th December 1991, No. 91/680 EEC (O.J. 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, article 7 of the [Valued Added Tax \(Cars\) Order 1980 \(No. 442\)](#) (the 1980 Order), by excluding from the scope of the tax, disposals by finance houses and insurers

(4) [1972 c. 41](#); provisions of the Value Added Tax (Cars) Order 1980 in respect of which approval by the House of Commons was required by virtue of section 43(4) of the Finance Act 1972 are revoked by the [Value Added Tax \(Input Tax\) Order 1992 \(No.3222\)](#).

**Status:** Point in time view as at 01/12/1999.

**Changes to legislation:** There are currently no known outstanding effects for the The Value Added Tax (Cars) Order 1992. (See end of Document for details)

of used motor cars in specified circumstances, and disposals without consideration of any motor car (including one acquired from another member State) in relation to which deduction of input tax has been disallowed.

Articles 5 and 6 re-enact, with amendments, article 5(1) to (3) and article 5(3A) respectively of the 1980 Order. They each provide for circumstances where a person is to be treated as supplying a motor car (which might be one acquired from another member State) both to himself and by himself.

Article 7 re-enacts article 5(4) of the 1980 Order by applying articles 5 and 6 to bodies corporate which are treated as members of a group.

Article 8 re-enacts, with amendments, article 6 of the 1980 Order. It provides for the tax chargeable on the supply of a used motor car (including one acquired from another member state) to be, subject to specified conditions, chargeable by reference to the excess (if any) of the consideration for which the car is supplied over the cost of its purchase plus (in the case of a car acquired from another member State or imported from a place outside the member States) the tax chargeable on its acquisition or importation.

**Status:**

Point in time view as at 01/12/1999.

**Changes to legislation:**

There are currently no known outstanding effects for the The Value Added Tax (Cars) Order 1992.