
STATUTORY INSTRUMENTS

1992 No. 3122

The Value Added Tax (Cars) Order 1992

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.

Interpretation

2. In this Order—

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

“car dealer” means a taxable person who carries on a business which consists of or includes the sale of motor cars;

“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;

“insurer” means a person permitted, in accordance with section 2 of the Insurance Companies Act 1982⁽¹⁾ to effect and carry out contracts of insurance against risks of loss of or damage to goods;

“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 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 or suitable for carrying twelve or more persons;
- (ii) vehicles of not less than three tonnes unladen weight;
- (iii) caravans, ambulances and prison vans;
- (iv) vehicles of a type approved by the Assistant Commissioner of Police of the Metropolis conforming to the conditions of fitness for the time being laid down by him for the purposes of the London Cab Order 1934⁽²⁾; or
- (v) 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.

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.

(1) 1982 c. 50.

(2) S.R. & O. 1934/1346 (Rev. XIV, p.795: 1934 I, p.1221).

Treatment of transactions

4.—(1) 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 where, on a previous supply of the motor car or on its acquisition from another member State or on its importation, tax charged thereon had been excluded from any credit by virtue of an order made under section 14(10) of the Act.

(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 8A(1) (a) of the Act⁽³⁾.

Self-supplies

5.—(1) This article applies to the following motor cars produced or obtained by a taxable person in the course or furtherance of any business carried on by him, that is to say—

- (a) any motor car produced by him otherwise than by the conversion of a vehicle obtained by him;
- (b) any motor car produced by him by the conversion of another vehicle (whether a motor car or not) and in respect of which the conditions specified in paragraph (2) below are satisfied;
- (c) any motor car obtained by him and in respect of which the conditions specified in paragraph (2) below are satisfied.

(2) The conditions mentioned in paragraph (1) above are—

- (a) that the motor car or other vehicle was supplied to the taxable person or was acquired by him from another member State or was imported by him; and
- (b) tax was chargeable on that supply, acquisition or importation; and
- (c) the taxable person is entitled to credit for that tax under sections 14 and 15 of the Act.

(3) Save in the case of a motor car to which article 6 below applies, where a motor car to which this article applies—

- (a) is neither supplied by the taxable person in the course or furtherance of any business carried on by him, nor converted into another vehicle (whether a motor car or not) in the course of furtherance of that business; but
- (b) is used by him for the purpose of that business,

the motor car shall be treated for the purposes of the Act as both supplied to him for the purposes of that business and supplied by him in the course or furtherance of that business, except where the Commissioners are satisfied that the motor car is, or is to be, used solely for the purpose of research and development in his business as a producer of motor cars (other than as a producer of motor cars solely by the conversion of vehicles).

6.—(1) Where a motor car is supplied to a taxable person or is acquired by a taxable person from another member State or is imported by a taxable person, primarily for the purpose of—

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

(a) being provided by him for hire with the services of a driver for the purpose of carrying passengers; or

(b) being provided by him for self-drive hire; or

(c) being used as a vehicle in which instruction in the driving of a motor car is to be given by him; or

(d) 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 sub-paragraphs (a) to (c) above, and it is neither supplied by the taxable person in the course or furtherance of any business carried on by him, nor converted into another vehicle (whether a motor car or not), in the course or furtherance of that business, but it is used by him for the purpose of any business carried on by him primarily for a purpose other than one of the purposes described in sub-paragraphs (a) to (d) above, then the motor car shall be treated for the purposes of the Act as both supplied to him for the purposes of that business and supplied by him in the course or furtherance of that business.

(2) In this article “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.

7. Articles 5 and 6 above shall apply in relation to any bodies corporate which are treated for the purposes of section 29 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.

Relief for second-hand motor cars

8.—(1) Subject to paragraph (2) below—

- (a) on the supply by any person of a used motor car, tax shall be chargeable as if the supply were for a consideration equal to the excess of—
 - (i) the consideration for which the motor car is supplied by him, over
 - (ii) the consideration for which the motor car was obtained by him,and accordingly shall not be charged unless there is such an excess;
- (b) on the supply by a person of a used motor car which was acquired by him from another member State, or imported by him, the consideration for which the motor car was obtained by him shall be taken to be the value of its acquisition or, as the case may require, its value for the purposes of charging tax on importation, together with any tax chargeable in respect of the acquisition, or, as the case may be, the importation of the motor car;
- (c) on the supply by a person of a used car previously treated under article 5 above as supplied by him, paragraph (a) above shall apply as if for the consideration referred to in sub-paragraph (ii) there were substituted the amount by reference to which tax was chargeable on the previous supply plus the tax so chargeable.

(2) 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 tax or as being attributable to tax is issued in respect of the supply;

- (d) a supply by a car dealer unless he keeps such records and accounts as the Commissioners may specify in a notice published by them for the purposes of this Order or may recognise as sufficient for those purposes;
 - (e) 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
 - (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) above.
- (3) For the purposes of paragraph (2)(e) 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.
- (4) Where a car dealer has failed to keep all such records and accounts as the Commissioners have specified, and the Commissioners do not recognise other records and accounts kept as sufficient, tax shall be chargeable as provided in paragraph (5) below if the following conditions are satisfied—
- (a) such records as the Commissioners have specified are available in relation to the purchase of the motor car or in relation to the supply of the motor car by him;
 - (b) the Commissioners are of the opinion that the mark-up achieved by him does not exceed 100 per cent; and
 - (c) the supply is otherwise eligible for the relief afforded by this article.
- (5) The tax chargeable in the circumstances referred to in paragraph (4) above shall be either—
- (a) where only the specified records in relation to the purchase of the motor car are available, as if the supply by the car dealer were for a consideration equal to the consideration for which the motor car was purchased by him; or
 - (b) where only the specified records in relation to the supply by him are available, as if the supply by the car dealer were for a consideration equal to half the consideration for which the motor car was supplied by him.

*Irvine Patnick
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Two of the Lords Commissioners of Her
Majesty’s Treasury

9th December 1992