
STATUTORY INSTRUMENTS

1992 No. 3129

The Value Added Tax (Special Provisions) Order 1992

Treatment of transactions

5.—(1) Subject to paragraph (2) below, there shall be treated as neither a supply of goods nor a supply of services the following supplies by a person of assets of his business—

- (a) their supply to a person to whom he transfers his business as a going concern where—
 - (i) the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor, and
 - (ii) in a case where the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, a taxable person or a person defined as such in section 2(2) of the Manx Act;
- (b) their supply to a person to whom he transfers part of his business as a going concern where—
 - (i) that part is capable of separate operation,
 - (ii) the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor in relation to that part, and
 - (iii) in a case where the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, a taxable person or a person defined as such in section 2(2) of the Manx Act.

(2) A supply of assets shall not be treated as neither a supply of goods nor a supply of services by virtue of paragraph (1) above to the extent that it consists of—

- (a) a grant which would, but for an election which the transferor has made, fall within item 1 of Group 1 of Schedule 6 to the Value Added Tax Act 1983(1); or
- (b) a grant of a fee simple which falls within paragraph (a) of item 1 of Group 1 of Schedule 6 to the Value Added Tax Act 1983,

unless the transferee has made an election in relation to the land concerned which has effect on the relevant date and has given any written notification of the election required by paragraph 3(6) of Schedule 6A to the Value Added Tax Act 1983(2) no later than the relevant date.

(3) In paragraph (2) of this article—

“election” means an election having effect under paragraph 2 of Schedule 6A to the Value Added Tax Act 1983;

“relevant date” means the date upon which the grant would have been treated as having been made or, if there is more than one such date, the earliest of them;

(1) Group 1 was amended by the Finance Act 1989 (c. 26), Schedule 3 paragraph 4, and by the Value Added Tax (Construction of Dwellings and Land) Order 1990 (No. 2553).
(2) Schedule 6A was inserted by paragraph 6(2) of Schedule 3 to the Finance Act 1989 (c. 26).

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

“transferor” and “transferee” include a relevant associate of either respectively as defined in paragraph 3(8) of Schedule 6A to the Value Added Tax Act 1983.

(4) There shall be treated as neither a supply of goods nor a supply of services the assignment by an owner of goods comprised in a hire-purchase or conditional sale agreement of his rights and interest thereunder, and the goods comprised therein, to a bank or other financial institution.