

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

1993 No. 2001

VALUE ADDED TAX

The Value Added Tax (Payments on Account) Order 1993

<i>Made</i>	- - - -	<i>9th August 1993</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th August 1993</i>
<i>Coming into force</i>	- -	<i>2nd September 1993</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 1993 and shall come into force on 2nd September 1993.

Interpretation

2.—(1) In this Order—

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

“the basic period” means, in relation to a taxable person falling within article 5 or 6 below, the period of one year in which there ended the prescribed accounting periods in respect of which his liability to pay a total amount of tax exceeding £2,000,000 caused him to become such a taxable person;

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

“credit transfer” means the transfer of funds from one bank account to another under a mandate given by the payer to the bank making the transfer;

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

“reference period” has the meaning ascribed to it in article 11(1) below.

(2) Any reference in articles 13 to 15 below to the total amount of tax by reference to which a taxable person’s payments on account fall to be calculated being “reduced accordingly” or “increased accordingly” is in each case a reference to a reduction or increase of the same proportion as the difference between the total amount of tax by reference to which his payments on account are currently calculated and the total amount of tax, excluding the tax on goods imported from countries other than member States, which he was, or (as the case may be) which the Commissioners are satisfied that he will be, liable to pay in respect of the prescribed accounting periods the ends of which fall within the year referred to in the relevant provision of the article in question.

Revocation

3.—(1) Subject to paragraph (2) below, the Value Added Tax (Payments on Account) (No. 2) Order 1992(2) is hereby revoked.

(2) The duty under the Value Added Tax (Payments on Account) (No. 2) Order 1992 of any taxable person to make a payment on account in respect of a prescribed accounting period beginning before 2nd September 1993 shall not be affected by the revocation of that Order which shall continue to have effect in relation to any such payment on account.

Payments on account

4.—(1) A taxable person falling within article 5 or 6 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 1993, amounts (in this Order referred to as “payments on account”) determined in accordance with this Order at times so determined, provided that in the case of a taxable person falling within article 6 below there shall be no duty to pay such amounts in respect of a prescribed accounting period other than one beginning after the basic period.

(2) Where such a taxable person has a prescribed accounting period exceeding one month which begins on or after 2nd September 1993 and which relates to the tax period 12/93 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 paragraph (2) below and article 16 below, a taxable person falls within this article if the total amount of tax which he was liable to pay in respect of 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 June 1993 exceeded £2,000,000.

(2) Where in the year ending 31st May 1993 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 year ending 31st May 1993 to which references are shown in the certificate of registration issued to him.

6.—(1) Subject to paragraph (2) below and article 16 below, a taxable person who does not fall within article 5 above shall fall within this article if the total amount of tax which he was liable to pay in respect of the prescribed accounting periods the ends of which fell within any one period of one year ending on the last day of a prescribed accounting period of his ending after 31st May 1993 exceeded £2,000,000.

(2) Where in the period of the year referred to in paragraph (1) 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, that 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 that period of one year to which references are shown in the certificate of registration issued to him.

Cessation of duty to make payments on account

7. If the total amount of tax which a taxable person who is under a duty to make payments on account was liable to pay in respect of the prescribed accounting periods the ends of which fell within any one period of one year ending after the end of the basic period was less than £1,600,000, then, with effect from the date of the written approval by the Commissioners of a written application by the taxable person to that effect, he shall not be under a duty to make payments on account.

Time for payment

8. Subject to articles 9 and 10 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.

9. Subject to article 10 below, 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.

10. Where a taxable person has agreed with the Commissioners to pay tax by credit transfer, his time for making any payment on account shall be extended by seven days.

Calculation of the payments on account

11.—(1) Subject to paragraph (2) below and articles 13, 14 and 15 below, the amount of each payment on account to be made by a taxable person who falls within article 5 above shall equal one twelfth of the total amount of tax, excluding the tax on goods imported from countries other than

member States, which he was liable to pay in respect of the prescribed accounting periods the ends of which fell within the period (in this Order referred to as “the reference period”)—

- (a) 1st April 1992 to 31st March 1993 where he has a prescribed accounting period beginning in October 1993,
- (b) 1st May 1992 to 30th April 1993 where he has a prescribed accounting period beginning in November 1993, and
- (c) 1st June 1992 to 31st May 1993 where he has a prescribed accounting period beginning in December 1993.

(2) Where in the period of the year mentioned in sub-paragraph (a), (b) or (c) of paragraph (1) 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 paragraph (1), be regarded as having comprised those prescribed accounting periods which related to the tax periods ending within the period of the year mentioned in sub-paragraph (a), (b) or (c) of paragraph (1) as appropriate to which references are shown in the certificate of registration issued to him.

12. Subject to articles 13, 14 and 15 below, the amount of each payment on account to be made by a taxable person who falls within article 6 above shall equal one twelfth of the total amount of tax, excluding the tax on goods imported from countries other than member States, which he was liable to pay in respect of the prescribed accounting periods the ends of which fell within the basic period.

13. 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 the prescribed accounting periods the ends of which fell within any one period of one year—
 - (i) in the case of a taxable person who falls within article 5 above, ending after the end of his reference period was less than 80 per cent. of the total amount of tax relevant in his case under article 11 above, or
 - (ii) in the case of a taxable person who falls within article 6 above, ending after the end of the basic period was less than 80 per cent. of the total amount of tax referred to in article 12, 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 in respect of 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 sub-paragraph (i) or (ii) (as the case may be) of paragraph (a) above,

then, with effect from the date of the written approval by the Commissioners of a written application by the taxable person to that effect, but subject to article 14 below, the total amount of tax by reference to which his payments on account fall to be calculated shall be reduced accordingly 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 equal one twelfth of the reduced amount.

14. If 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 prescribed accounting periods the ends of which fell within any one period of one year—

- (a) in the case of a taxable person who falls within article 5 above, ending after the end of his reference period exceeded by 20 per cent. or more the total amount of tax by reference to which his payments on account are currently calculated, or

- (b) in the case of a taxable person who falls within article 6 above, ending after the end of the basic period exceeded by 20 per cent. or more the total amount of tax by reference to which his payments on account are currently calculated,

then, with effect from the end of the period of one year first mentioned, but subject to article 15 below, the total amount of tax by reference to which his payments on account fall to be calculated shall be increased accordingly and the amount of each payment on account beginning with the first payment on account which falls to be made after the end of that period of one year shall equal one twelfth of the increased amount.

15. Where the payments on account payable by a taxable person have been increased by virtue of article 14 above and—

- (a) the total amount of tax, excluding the tax on goods imported from countries other than member States, which he was liable to pay in respect of the prescribed accounting periods the ends of which fell within any one period of one year ending after such increase has taken effect was less than 80 per cent. of the total amount of tax by reference to which his payments on account are currently calculated, 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 he will be liable to pay in respect of 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 by reference to which his payments on account are currently calculated,

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 total amount of tax by reference to which his payments on account fall to be calculated shall be reduced accordingly 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 equal one twelfth of the reduced amount.

Business carried on in divisions

16.—(1) Subject to paragraph (3) below, where the registration under the Act of a body corporate is and was throughout the prescribed accounting periods mentioned in article 5(1) or 6(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 or 6 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 prescribed accounting periods of that division the ends of which fell within the period of one year ending on the last day of—

- (a) that division's last prescribed accounting period ending before 1st June 1993, or
- (b) a prescribed accounting period of that division ending after 31st May 1993,

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 1993 and which relates to the tax period 12/93 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) Articles 5(2) and 6(2) 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.

(4) 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.

(5) In relation to a body corporate to which this article applies, references in articles 7, 13, 14 and 15 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.

(6) 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.

Groups of companies

17. 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.

9th August 1993

Tim Kirkhope
Tim Wood
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, revokes and replaces the Value Added Tax (Payments on Account) (No. 2) Order 1992. It provides that certain taxable persons shall make payments on account of any tax they may become liable to pay in respect of their tax periods.

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 March to May 1993) exceeded £2,000,000 and provision is now made for the Order to apply also to a taxable person who did not exceed that amount in the period of the year specified in article 5 but who exceeds that amount in a subsequent period of a year (article 6).

Provision is now made for the duty to make payments to cease where a taxable person's VAT liability in a period of a year ending after the period of one year specified in articles 5 or 6 is less than £1,600,000 (article 7).

Article 8 provides that the payments are to be made monthly but special provision is made in article 9 for taxable persons who have tax periods which do not start on the first, or end on the last, day of the month. Article 10 allows extra time for payments made by credit transfer.

Calculation of the payments is determined in accordance with articles 11 and 12 but provision is made in articles 13, 14 and 15 for reduction and increase of payments in circumstances described in those articles.

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 16) and to bodies corporate which are treated as members of a group under section 29 of that Act (article 17).