
STATUTORY INSTRUMENTS

1995 No. 1268

The Value Added Tax (Special Provisions) Order 1995

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 9 to the Act; or
- (b) a grant of a fee simple which falls within paragraph (a) of item 1 of Group 1 of Schedule 9 to the Act,

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 10 to the Act⁽¹⁾, no later than the relevant date.

(3) In paragraph (2) of this article—

“election” means an election having effect under paragraph 2 of Schedule 10 to the Act;

“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;

“transferor” and “transferee” include a relevant associate of either respectively as defined in paragraph 3(7) of Schedule 10 to the Act.

(1) Schedule 10 was amended by the Value Added Tax (Buildings and Land) Order 1995 (S.I.1995/279).

(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.