
STATUTORY INSTRUMENTS

1995 No. 1667

VALUE ADDED TAX

The Value Added Tax (Cars) (Amendment) (No. 2) Order 1995

<i>Made</i>	- - - -	<i>29th June 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>30th June 1995</i>
<i>Coming into force</i>	- -	<i>1st August 1995</i>

The Treasury, in exercise of the powers conferred on them by sections 5(3), 5(5), 43(2) and 50A of the Value Added Tax Act 1994⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

1. This Order may be cited as the Value Added Tax (Cars) (Amendment) (No. 2) Order 1995 and shall come into force on 1st August 1995.

2. The Value Added Tax (Cars) Order 1992⁽²⁾ shall be amended in accordance with articles 3 to 8 of this Order.

3. In article 4—

(a) at the beginning of paragraph (1) there shall be inserted “Subject to paragraphs (1A) to (2) below,”;

(b) in sub-paragraph (c) of paragraph (1) the words “where” to the end shall be deleted;

(c) after sub-paragraph (e)⁽³⁾ of paragraph (1) there shall be added the following—

“(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.”; and

(d) after paragraph (1) there shall be inserted the following—

“(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.

⁽¹⁾ 1994 c. 23; section 50A was inserted by section 24 of the Finance Act 1995 (c. 4).

⁽²⁾ S.I.1992/3122; relevant amendments were made by S.I. 1993/2951 and S.I. 1995/1269.

⁽³⁾ Sub-paragraph (e) was inserted by article 4(c) of S.I. 1995/1269.

- (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.”

4. After article 4 there shall be inserted the following—

“4A. Paragraph 5(4) of Schedule 4 to the Act shall not apply in relation to a motor car to which either article 5 or article 6 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 one or other of those articles as supplied to and by a taxable person.”

5. For article 5 there shall be substituted the following—

“(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; or
- (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,

but does not apply to any motor car to which article 6 below applies.

(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.

(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 it is not used exclusively for the purposes of a business carried on by him,

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.”

6. In article 6, for paragraphs (1) and (1A)(4) there shall be substituted the following—

“(1) This article applies to any motor car which has been supplied to, or acquired from another member State or imported by, a taxable person primarily for the purpose of—

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

(4) Paragraph (1A) was inserted by S.I. 1993/2951.

(1A) Where a motor car to which this article applies—

- (a) is neither supplied nor converted into another vehicle (whether a motor car or not) by the taxable person, in either case, in the course or furtherance of any business carried on by him; and
- (b) is used by him primarily for a purpose other than one of the purposes described in paragraph (1) above, but is not used exclusively for the purposes of a business carried on by him,

it 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.”.

7. After article 6 there shall be inserted the following—

“**6A.** For the purposes of articles 5 and 6 above article 7 of the Value Added Tax (Input Tax) Order 1992(**5**) shall apply for the purpose of determining whether a motor car is used exclusively for the purposes of the taxable person’s business as it would apply for the purpose of determining whether he so intended to use it.”.

8. In article 8—

(a) after sub-paragraph (b) of paragraph (2) there shall be inserted the following—

“(bb) a supply to which the provisions of article 7(4) of the Value Added Tax (Input Tax) Order 1992(**6**) applied;”;

(b) sub-paragraph (d) of paragraph (3) shall be deleted; and

(c) paragraph (4) shall be deleted.

9. The Value Added Tax (Cars) (Amendment) Order 1993(**7**) is hereby revoked.

Tim Wood

Andrew Mitchell

Two of the Lords Commissioners of Her Majesty’s Treasury

29th June 1995

(5) S.I. [1992/3222](#); relevant amendments to article 7 were made by S.I. [1995/1666](#).

(6) S.I. [1992/3222](#); article 8 was substituted by S.I. [1995/1269](#).

(7) S.I. [1993/2951](#).

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st August 1995, further amends the [Value Added Tax \(Cars\) Order 1992 \(No. 3122\)](#) (the principal Order).

Article 3 of the Order amends article 4 of the principal Order which provides for supplies of motor cars that have been subject to input tax restriction to be treated as neither a supply of goods nor a supply of services. In particular, a new sub-paragraph (f) is inserted into paragraph (1) of article 4 which provides that letting a motor car on hire free of charge or for a nominal consideration and making a motor car available for private use, whether or not for a consideration, are treated as neither supplies of goods nor supplies of services.

Article 4 inserts a new article 4A into the principal Order which disapplies the normal VAT supply rules applicable to the private use of business assets where the asset is a motor car and it is used or made available in circumstances which would, but for those rules, be the subject of a self supply under the provisions of articles 5 and 6 of the principal Order as amended by articles 5 and 6 of this Order.

Articles 5 and 6 make consequential changes to the self supply provisions in articles 5 and 6 of the principal Order to reflect the changes to the rules relating to recovery of input tax on motor cars used exclusively for business purposes. Article 7 inserts a new article 6A into the principal Order which provides for the definition of use exclusively for business purposes which applies for input tax recovery to apply also to the self supply provisions in articles 5 and 6.

Article 8 amends article 8 of the principal Order to enable second hand motor cars which have been supplied to a taxable person under the margin scheme applicable to the supply of motor cars which are subject to restriction of input tax recovery to be sold under the second-hand car margin scheme provided for by article 8. In addition sub-paragraph (3)(d) and paragraph (4) of the article are deleted.

Finally, article 9 of the Order revokes the [Value Added Tax \(Cars\) \(Amendment\) Order 1993 \(No. 2951\)](#) which is spent.