
STATUTORY INSTRUMENTS

1998 No. 764

**The Value Added Tax (Sport, Sports Competitions
and Physical Education) Order 1998**

5. After Note (3) there shall be added the following—

“(4) A body is subject to commercial direction if the body has—

- (a) received a relevant supply from a relevant person during the relevant period relating to that supply;
- (b) entered into any agreement, arrangement or understanding (whether or not legally enforceable) to receive a relevant supply from a relevant person after the time of making the sports supply in question;
- (c) paid an emolument to a relevant person during the relevant period relating to that emolument; or
- (d) entered into any agreement, arrangement or understanding (whether or not legally enforceable) to pay an emolument to a relevant person after the time of making the sports supply in question.

(5) For the purposes of Note (4) above—

“relevant supply” means—

- (a) the grant of—
 - (i) any interest in or right over land,
 - (ii) any licence to occupy land, or
 - (iii) in relation to land in Scotland, any personal right to call for or be granted any such interest or right,if the land in question is used for or in connection with the provision of sport or physical recreation activities by the body making the sports supply;
- (b) the provision of any facilities which are used for or in connection with the provision of sport or physical recreation activities by the body making the sports supply;
- (c) the management or administration of such facilities; or
- (d) any other supply of goods or services for a consideration which is greater than that which would be payable in money if it were a commercial transaction conducted at arms length;

“relevant person” means a person who is, or is connected with, an officer or shadow officer of the body making the sports supply or who is, or is connected with an intermediary during any part of the relevant period which relates to a relevant supply received or to be received, or to an emolument paid or to be paid;

“relevant period” means—

- (a) in relation to a supply which falls within paragraph (a) of the descriptions of relevant supply contained in this Note, a period which commences on 1st April 1996 and ends at the time of the making of the sports supply in question; and

- (b) in relation to any emolument and in relation to any other relevant supply, a period of three years immediately preceding the time of the making of the sports supply in question;

“sports supply” means a supply which would be such as is described in item 2 or 3 if it were made by a non-profit making body;

“emolument” means any salary, fee, wage, perquisite, or profit whatsoever.

- (6) Any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act(1) at the earlier of—

- (a) the time when a relevant supply is made or an emolument is paid; and
- (b) the time when any agreement, arrangement or understanding is made if the time of the making of the sports supply in question precedes the time of the relevant supply or payment of the emolument concerned.

- (7) For the purposes of Note (5) above—

“grant” includes an assignment or surrender;

“officer” includes a director or any committee member, secretary or manager concerned in the management or administration of the body;

“shadow officer” means a person in accordance with whose directions or instructions the members or officers of a body are accustomed to act;

“intermediary” means a person who, not being the body making the sports supply in question, has—

- (a) received; or
- (b) entered into any agreement, arrangement or understanding (whether or not legally enforceable) to receive, after the time of the making of the sports supply in question,

a relevant supply from a person who, during any part of the relevant period which relates to the relevant supply received or to be received by the body making the sports supply, is or is connected with an officer or shadow officer of the body making the sports supply or who is or is connected with an intermediary.”.

(1) Section 96(1) of the Value Added Tax Act 1994 defines “the Taxes Act” to mean the Income and Corporation Taxes Act 1988 (c. 1).