
STATUTORY INSTRUMENTS

1999 No. 1994

**The Value Added Tax (Sport, Sports Competitions
and Physical Education) Order 1999**

5. After Note (3) there shall be inserted—

“(4) For the purposes of this Group a body shall be taken, in relation to a sports supply, to be subject to commercial influence if, and only if, there is a time in the relevant period when—

- (a) a relevant supply was made to that body by a person associated with it at that time;
- (b) an emolument was paid by that body to such a person;
- (c) an agreement existed for either or both of the following to take place after the end of that period, namely—
 - (i) the making of a relevant supply to that body by such a person; or
 - (ii) the payment by that body to such a person of any emoluments.

(5) In this Group “the relevant period”, in relation to a sports supply, means—

- (a) where that supply is one made before 1st January 2003, the period beginning with 14th January 1999 and ending with the making of that sports supply; and
- (b) where that supply is one made on or after 1st January 2003, the period of three years ending with the making of that sports supply.

(6) Subject to Note (7), in this Group “relevant supply”, in relation to any body, means a supply falling within any of the following paragraphs—

- (a) the grant of any interest in or right over land which at any time in the relevant period was or was expected to become sports land;
- (b) the grant of any licence to occupy any land which at any such time was or was expected to become sports land;
- (c) the grant, in the case of land in Scotland, of any personal right to call for or be granted any such interest or right as is mentioned in paragraph (a) above;
- (d) a supply arising from a grant falling within paragraph (a), (b) or (c) above, other than a grant made before 1st April 1996;
- (e) the supply of any services consisting in the management or administration of any facilities provided by that body;
- (f) the supply of any goods or services for a consideration in excess of what would have been agreed between parties entering into a commercial transaction at arm’s length.

(7) A supply which has been, or is to be or may be, made by any person shall not be taken, in relation to a sports supply made by any body, to be a relevant supply for the purposes of this Group if—

- (a) the principal purpose of that body is confined, at the time when the sports supply is made, to the provision for employees of that person of facilities for use for or in connection with sport or physical recreation, or both;

- (b) the supply in question is one made by a charity or local authority or one which (if it is made) will be made by a person who is a charity or local authority at the time when the sports supply is made;
 - (c) the supply in question is a grant falling within Note (6)(a) to (c) which has been made, or (if it is made) will be made, for a nominal consideration;
 - (d) the supply in question is one arising from such a grant as is mentioned in paragraph (c) above and is not itself a supply the consideration for which was, or will or may be, more than a nominal consideration; or
 - (e) the supply in question—
 - (i) is a grant falling within Note (6)(a) to (c) which is made for no consideration; but
 - (ii) falls to be treated as a supply of goods or services, or (if it is made) will fall to be so treated, by reason only of the application, in accordance with paragraph 9 of Schedule 4, of paragraph 5 of that Schedule.
- (8) Subject to Note (10), a person shall be taken, for the purposes of this Group, to have been associated with a body at any of the following times, that is to say—
- (a) the time when a supply was made to that body by that person;
 - (b) the time when an emolument was paid by that body to that person; or
 - (c) the time when an agreement was in existence for the making of a relevant supply or the payment of emoluments,
- if, at that time, or at another time (whether before or after that time) in the relevant period, that person was an officer or shadow officer of that body or an intermediary for supplies to that body.
- (9) Subject to Note (10), a person shall also be taken, for the purposes of this Group, to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if, at that time, he was connected with another person who in accordance with that Note—
- (a) is to be taken to have been so associated at that time; or
 - (b) would be taken to have been so associated were that time the time of a supply by the other person to that body.
- (10) Subject to Note (11), a person shall not be taken for the purposes of this Group to have been associated with a body at a time mentioned in paragraph (a), (b) or (c) of Note (8) if the only times in the relevant period when that person or the person connected with him was an officer or shadow officer of the body are times before 1st January 2000.
- (11) Note (10) does not apply where (but for that Note) the body would be treated as subject to commercial influence at any time in the relevant period by virtue of—
- (a) the existence of any agreement entered into on or after 14th January 1999 and before 1st January 2000; or
 - (b) anything done in pursuance of any such agreement.
- (12) For the purposes of this Group a person shall be taken, in relation to a sports supply, to have been at all times in the relevant period an intermediary for supplies to the body making that supply if—
- (a) at any time in that period either a supply was made to him by another person or an agreement for the making of a supply to him by another was in existence; and
 - (b) the circumstances were such that, if—
 - (i) that body had been the person to whom the supply was made or (in the case of an agreement) the person to whom it was to be or might be made; and

(ii) Note (7) above were to be disregarded to the extent (if at all) that it would prevent the supply from being a relevant supply, the body would have fallen to be regarded in relation to the sports supply as subject to commercial influence.

(13) In determining for the purposes of Note (12) or this Note whether there are such circumstances as are mentioned in paragraph (b) of that Note in the case of any supply, that Note and this Note shall be applied first for determining whether the person by whom the supply was made, or was to be or might be made, was himself an intermediary for supplies to the body in question, and so on through any number of other supplies or agreements.

(14) In determining for the purposes of this Group whether a supply made by any person was made by an intermediary for supplies to a body, it shall be immaterial that the supply by that person was made before the making of the supply or agreement by reference to which that person falls to be regarded as such an intermediary.

(15) Without prejudice to the generality of subsection (1AA) of section 43, for the purpose of determining—

- (a) whether a relevant supply has at any time been made to any person;
- (b) whether there has at any time been an agreement for the making of a relevant supply to any person; and
- (c) whether a person falls to be treated as an intermediary for the supplies to any body by reference to supplies that have been, were to be or might have been made to him,

references in the preceding Notes to a supply shall be deemed to include references to a supply falling for other purposes to be disregarded in accordance with section 43(1)(a).

(16) In this Group—

“agreement” includes any arrangement or understanding (whether or not legally enforceable);

“emolument” means any emolument (within the meaning of the Income Tax Acts) the amount of which falls or may fall, in accordance with the agreement under which it is payable, to be determined or varied wholly or partly by reference—

- (i) to the profits from some or all of the activities of the body paying the emolument; or
- (ii) to the level of that body’s gross income from some or all of its activities;

“employees”, in relation to a person, includes retired employees of that person;

“grant” includes an assignment or surrender;

“officer”, in relation to a body, includes—

- (i) a director of a body corporate; and
- (ii) any committee member or trustee concerned in the general control and management of the administration of the body;

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

“sports land”, in relation to any body, means any land used or held for use for or in connection with the provision by that body of facilities for use for or in connection with sport or physical recreation, or both;

“sports supply” means a supply which, if made by an eligible body, would fall within Item 2 or 3.

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

(17) For the purposes of this Group any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act (connected persons)(1).”.

(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).