
EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 1st August 2005 as the day on or after which section 6 of the Finance (No. 2) Act 2005(c. 22) has effect. That section provides that Schedule 1 to the Act shall come into force. Schedule 1 amends Schedule 11A to the Value Added Tax Act 1994 (c. 23)(disclosure of avoidance schemes).

Taxable persons are, in the circumstances specified in Schedule 11A to the Value Added Tax Act 1994, required to notify the Commissioners for Her Majesty's Revenue and Customs⁽¹⁾ where they are a party to any scheme or provision designated in an Order made under that Schedule. That Order is the Value Added Tax (Disclosure of Avoidance Schemes)(Designations) Order 2004 (S.I.2004/1933 as amended by S.I. 2005/1724). Failure to notify may lead to the imposition of a penalty.

Article 3 provides that paragraph 6(1)(c) of Schedule 11A (reduction in non-deductible tax), which was inserted by the Finance (No. 2) Act 2005, shall not apply in relation to any prescribed accounting period beginning before 1st August 2005.

Article 4 of this Order applies where a taxable person has treated, or intends to treat, a tax advantage as having been obtained for the purposes of any VAT return, or claim, made in respect of a prescribed accounting period beginning before 1st August 2005. Any relevant tax advantage is to be disregarded for the purposes of paragraph 5(3) of that Schedule (meaning of notifiable scheme). A relevant tax advantage is defined as a tax advantage falling within paragraph 2(1)(d) or 2(2) of Schedule 11A, as inserted by the Finance (No. 2) Act 2005.

(1) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.