

2008 No. 3058

VALUE ADDED TAX

EXCISE

The Travellers' Allowances (Amendment) Order 2008

Approved by the House of Commons

Made - - - - 28th November 2008

Laid before the House of Commons 28th November 2008

Coming into force - - 1st December 2008

The Commissioners for Her Majesty's Revenue and Customs make this Order exercising the powers in sections 13(1) and 13(3)(a) of the Customs and Excise Duties (General Reliefs) Act 1979(b):

1.—(1) This Order may be cited as the Travellers' Allowances (Amendment) Order 2008 and comes into force on 1st December 2008.

(2) The changes it makes only have effect where the person in question enters the United Kingdom on 1st December 2008 or later (see articles 2(1) and 2(2) of the Travellers' Allowances Order 1994(c) – traveller from outside European Community's value added tax or excise area).

2. The Schedule amends the Travellers' Allowances Order 1994.

3. The Travellers' Allowances Amendment Order 1995(d) is revoked.

*Bernadette Kenny
Mike Eland*

28th November 2008

Two of the Commissioners for Her Majesty's Revenue and Customs

(a) 1979 c. 3; section 13(3) was amended by section 15 of the Finance Act 1984 (c. 43), and Schedule 1 paragraph 8(1) to the Finance (No. 2) Act 1992 (c. 48) and S.I. 1992/2979 (C.93).

(b) 1979 c. 3; section 18(2) provides that "the Commissioners" refers to those for Revenue and Customs, adopting the meaning in section 1(1) of the Customs and Excise Management Act 1979 (c. 2) as amended by Schedule 4 paragraph 22(b) to the Commissioners for Revenue and Customs Act 2005 (c. 11).

(c) S.I. 1994/955, amended by S.I. 1995/3044.

(d) S.I. 1995/3044.

Amendments to the Travellers' Allowances Order 1994

1. Article 2(1) of the Order

Omit "obtained by him in a third country and".

2. Article 2(2)(c) of the Order

Substitute the following for everything from "(c)" to "December 1991."—

"(c) "third country"—

- (i) shares the definition that applies to that expression for the purposes of Council Directive 2007/74/EC(a) (this is termed "outside country" below) (see both indents of Article 3(1) of the Directive) (value added tax and excise duty exemptions for travellers from outside the Member States of the European Union, etc); but
- (ii) it incorporates the definition that applies for the purposes of that Directive to 'territory where the Community provisions on VAT or excise duty, or both do not apply' (this is termed "outside territory" below) (see both indents of Article 3(2) of that Directive); but
- (iii) any outside territory where those "Community provisions on VAT" do apply (or where that Directive regards them as applying) is not a third country for value added tax purposes; and
- (iv) any outside territory where those "Community provisions on ... excise duty" do apply (or where that Directive regards them as applying) is not a third country for excise duty purposes."

3. Article 2 of the Order

Insert as article 2(3)—

"(3) Where the person's journey involved transit through an outside country, or began in outside territory, this Order applies if that person is unable to establish to an officer of Revenue and Customs that the goods contained in that person's personal luggage were acquired subject to the general conditions governing taxation on the domestic market of a member State and do not qualify for any refunding of value added tax or excise duty.

(See Article 2 of Council Directive 2007/74/EC (transit, etc).)".

4. Article 3 of the Order

Start a new line and continue as follows—

"That condition is complied with, for example, where an occasional importation consists exclusively of goods intended as presents, or of goods for the personal or family use of the person in question.

(See Article 6 of Council Directive 2007/74/EC (non-commercial imports).)".

5. Article 4 of the Order

For "or alcoholic beverages" substitute ", alcoholic beverages and alcohol".

(a) O J No L 346, 29.12.07, p 6.

6. The Schedule to the Order

Replace the content and the heading “GOODS OBTAINED IN THIRD COUNTRIES” with the following table.

<i>Description</i>	<i>Quantity</i>
Goods other than fuel and those described below	<p>Total value £340 or less, if the person travelled by air or sea. Total value £240 or less, if the person did not travel by air or sea.</p> <p>Notes:</p> <p>(a) If the person enters the United Kingdom before 1st January 2009, the respective total values are £300 or less (travel by air or sea) and £210 or less (travel not by air or sea).</p> <p>(b) Private pleasure-flying or private pleasure-sea-navigation does not constitute travel by air or sea for these purposes. This refers to the use of an aircraft or a sea-going vessel by its owner or the person who enjoys its use either through hire or through any other means, for purposes other than commercial and in particular other than for the carriage of passengers or goods or for the supply of services for consideration or for the purposes of public authorities.</p> <p>(c) The value of an individual item must not be split up.</p> <p>(d) The value of the person’s personal luggage if imported temporarily or re-imported following its temporary export, and of medicinal products required to meet the person’s personal needs, is excluded from consideration.</p> <p>(e) This relief corresponds to Articles 3(3), 3(4), 5 (the exclusion of fuel), 7(1), 7(3), 7(4) and 15 of Council Directive 2007/74/EC.</p>
Alcoholic beverages and alcohol, other than beer and still wine	<p>1 litre of alcohol and alcoholic beverages of an alcoholic strength exceeding 22% by volume, or undenatured ethyl alcohol of 80% by volume and over; or 2 litres of alcohol and alcoholic beverages of an alcoholic strength not exceeding 22% by volume.</p> <p>Notes:</p> <p>(f) Each respective amount represents 100% of the total relief afforded for alcohol and alcoholic beverages.</p> <p>(g) For any one person, the relief applies to any combination of the types of alcohol and alcoholic beverage described, provided that the aggregate of the percentages used up from the relief the person is afforded for such alcohol and alcoholic beverage does not exceed 100%.</p> <p>(h) This relief corresponds to Articles 9(1) and 9(2) of that Directive.</p>
Beer	<p>16 litres or less</p> <p>Notes:</p> <p>(i) This relief corresponds to Article 9(3) of that Directive (beer).</p>
Still wine	<p>4 litres or less</p> <p>Notes:</p> <p>(j) This relief corresponds to Article 9(3) of that Directive (still wine).</p>
Tobacco products	<p>200 cigarettes, or 100 cigarillos, or 50 cigars, or 250 grams of smoking tobacco.</p> <p>Notes:</p> <p>(k) Each respective amount represents 100% of the total relief afforded for tobacco products.</p> <p>(l) For any one person, the relief applies to any combination of tobacco products provided that the aggregate of the percentages used up from the relief the person is afforded for such products does not exceed 100%.</p> <p>(m) A cigarillo is a cigar of maximum weight 3 grams.</p> <p>(n) This relief corresponds to Articles 8(1) and 8(4) of that Directive.</p>

EXPLANATORY NOTE

(This note is not part of the Order)

The table below summarises the new ‘tax and duty free’ allowances(a) for travellers from outside the European Community, starting on 1 December 2008 (with the value added tax allowance changing again on 1 January 2009).

This follows from the amendments this instrument makes to the Travellers’ Allowances Order 1994 (S.I. 1994/955) to give effect to Council Directive 2007/74/EC (exemptions from value added tax and excise duty of goods imported by persons travelling from third countries)(b).

<i>Description⁽¹⁾</i>	<i>Allowance up to</i>
Goods, other than alcohol, tobacco and fuel	Total value ⁽²⁾ £340, if travel by air or sea ⁽³⁾ Total value ⁽²⁾ £240, if travel not by air or sea ⁽³⁾
Alcohol, other than beer and still wine	1 litre of alcoholic beverages over 22% strength by volume, or 2 litres not exceeding that strength; or the equivalent ⁽⁴⁾
Beer	16 litres
Still wine	4 litres
Tobacco	200 cigarettes or 100 cigarillos or 50 cigars or 250 grams smoking tobacco or the equivalent ⁽⁵⁾

⁽¹⁾ The allowances for 60 ml perfume and 250 ml toilet water are removed.

⁽²⁾ Before 1st January 2009, the respective total values are £300 (travel by air or sea) and £210 (travel not by air or sea). The value of individual items must not be split up, but re-imported or temporarily imported personal luggage and any medicinal products for personal needs are excluded from the calculation.

⁽³⁾ Private pleasure-flying or private pleasure-sea-navigation does not constitute travel by air or sea.

⁽⁴⁾ Determined using notes (f) and (g) in the table inserted by paragraph 6 of the Schedule.

⁽⁵⁾ Determined using notes (k) to (m) in that table.

(a) The corresponding allowance for customs duty is in Article 45 of Council Regulation 918/83/EEC (OJ No L 305, 25.04.83, p 1), as amended by Council Regulation (EC) No 274/2008 (OJ No L 85, 27.03.08, p 1).

(b) The instrument amends S.I. 1994/955 and revokes S.I. 1995/3044, see article 2 and paragraphs 1 to 6 of the Schedule, and article 3. This better reflects Council Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries (i.e. from outside the European Community or its value added tax/excise areas) (OJ No L 346, 29.12.07, p 6). In particular, the geographical rules and the conditions for relief are better aligned with the Directive (see article 2 and paragraphs 1 to 5 of the Schedule). A transposition note for the Directive is available from www.hmrc.gov.uk. A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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£4.00