
 STATUTORY INSTRUMENTS

1981 No. 1741

VALUE ADDED TAX

The Value Added Tax (Special Provisions) Order 1981

Made - - - - - 3rd December 1981

Laid before the
House of Commons 11th December 1981

Coming into Operation 1st January 1982

The Treasury, in exercise of the powers conferred on them by sections 3(9), 6(3) and (5), 14, 21(2) and 43(1) of the Finance Act 1972^(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Value Added Tax (Special Provisions) Order 1981 and shall come into operation on 1st January 1982.

Interpretation

2. In this Order—

“the Act” means the Finance Act 1972;

“the Manx Act” means the Value Added Tax and Other Taxes Act 1973^(b);

“aircraft mortgage” means a mortgage which is registered in accordance with the Mortgaging of Aircraft Order 1972^(c) and by virtue of which an aircraft is made a security for a loan;

“business entertainment” means entertainment (including hospitality of any kind) provided by a taxable person in connection with a business carried on by him, but does not include the provision of anything for persons employed by the taxable person unless its provision for them is incidental to its provision for others;

for the purposes of the preceding paragraph, directors of a company or persons engaged in the management of a company shall be deemed to be persons employed by the company;

“caravan” includes a motor caravan but does not include a caravan of a description specified in Group 11 of Schedule 4 to the Act;

(a) 1972 c. 41, as amended by the Finance Act 1977 (c. 36) and S.I. 1980/183.

(b) Acts of Tynwald 1973 c. 1.

(c) S.I. 1972/1268.

“finance agreement” means an agreement for the sale of goods whereby the property in those goods is not to be transferred until the whole of the price has been paid and the seller retains the right to repossess the goods ;

“firearms” means rifles, shotguns, pistols (including revolvers) and air guns but does not include a weapon specified by section 5(1) of the Firearms Act 1968(a) ;

“insurer” means a person permitted, in accordance with section 2 of the Insurance Companies Act 1981(b), to effect and carry out contracts of insurance against risks of loss of or damage to goods ;

“marine mortgage” means a mortgage which is registered in accordance with the Merchant Shipping Act 1894(c) and by virtue of which a boat (but not any share thereof) is made a security for a loan ;

“motor cycle” includes a motor bicycle, motor tricycle or motor scooter (whether or not a sidecar is attached), a bicycle or tricycle with an attachment for propelling it by mechanical means and any mechanically propelled vehicle with three wheels capable of accommodating only one person ;

“overseas customer”, in relation to a taxable person, means—

- (a) any person who is not ordinarily resident nor carrying on a business in the United Kingdom or the Isle of Man and avails himself, or may be expected to avail himself, in the course of a business carried on by him outside the United Kingdom and the Isle of Man, of any goods or services the supply of which forms part of the taxable person’s business ; and
- (b) any person who is not ordinarily resident in the United Kingdom or the Isle of Man and is acting, in relation to such goods or services, on behalf of an overseas customer as defined in paragraph (a) above or on behalf of any government or public authority of a country outside the United Kingdom and the Isle of Man ;

“printed matter” includes printed stationery but does not include anything produced by typing, duplicating or photocopying ;

“works of art”, “antiques” and “collectors’ pieces” means the following goods—

- (a) paintings, drawings and pastels, executed by hand, other than hand-painted or hand-decorated manufactured articles ;
- (b) original engravings, prints and lithographs ;
- (c) original sculptures and statuary, in any material ;
- (d) antiques, of an age exceeding one hundred years, except pearls and loose gem stones ;
- (e) collections and collectors’ pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological or ethnographic interest.

(a) 1968 c. 27.

(b) 1981 c. 31.

(c) 1894 c. 60.

Revocation and Savings

3.—(1) The Value Added Tax (Special Provisions) Order 1977(a) and the Value Added Tax (Special Provisions) (Amendment) Order 1980(b) are hereby revoked.

(2) Anything begun under or for the purpose of an Order revoked by this Order may be continued under or, as the case may be, for the purpose of the corresponding provision of this Order.

(3) Where any document used or required for the purpose of the tax refers to a provision of an Order revoked by this Order, such reference shall, unless the contrary intention appears, be construed as referring to the corresponding provision of this Order.

Relief for certain goods

4.—(1) Except as otherwise provided by the following paragraphs of this article, article 5 shall apply to the supply of any of the following goods by a taxable person, where he has acquired those goods in any of the circumstances set out in paragraph (2) of this article:

- (a) works of art, antiques and collectors' pieces;
- (b) used motor cycles;
- (c) used caravans;
- (d) used boats and outboard motors;
- (e) used electronic organs;
- (f) used aircraft;
- (g) used firearms.

(2) The circumstances under which a taxable person has acquired any of the goods referred to in paragraph (1) of this article are as follows:

- (a) a supply on which no tax chargeable under Part I of the Act nor value added tax chargeable under Part I of the Manx Act was chargeable;
- (b) a supply on which tax chargeable under either of those Parts was chargeable in accordance with article 5 or a corresponding provision made under the Manx Act;
- (c) a transaction which was treated by virtue of any Order under the Act or the Manx Act as being neither a supply of goods nor a supply of services;
- (d) in so far as the goods referred to in paragraph (1)(a) of this article are concerned, an importation on which (whether by virtue of article 6 of this Order or otherwise) no tax chargeable under either of those Parts was chargeable.

(3) Article 5 does not apply to—

- (a) a supply which is a letting on hire;
- (b) a supply if an invoice or similar document showing an amount as being tax or as being attributable to tax is issued in respect of the supply;

(c) any supply by a taxable person unless he keeps such records and accounts as the Commissioners may specify in a notice published by them for the purposes of this Order or may recognise as sufficient for those purposes ;

(d) a supply of an air gun unless the taxable person is registered for the purposes of the Firearms Act 1968.

5. Where this article applies, tax shall be charged as if the supply of any of the goods referred to in article 4(1) were for a consideration equal to the excess of—

(a) the consideration for which the goods are supplied, over

(b) the consideration for which the goods were acquired,

and accordingly shall not be charged unless there is such an excess.

Relief from tax on importation

6.—(1) This article applies to—

(a) paintings, drawings and pastels, executed by hand, other than hand-painted or hand-decorated manufactured articles, original engravings, prints and lithographs, original sculptures and statuary, in any material, which were acquired by any person (otherwise than by his producing them or by succession on the death of the person producing them) before 1st April 1973 ;

(b) antiques, of an age exceeding one hundred years (except pearls and loose gem stones), collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological or ethnographic interest.

(2) Tax shall not be chargeable on the importation of any goods to which this article applies.

Disallowance of input tax

7. Where article 5 or a corresponding provision made under the Manx Act applies to a supply, input tax shall be excluded from credit under sections 3 and 4 of the Act.

8. Where a taxable person constructing a building for the purpose of granting a major interest in it or in any part of it incorporates in any part of the building or its site which is used for the purpose of a dwelling goods other than materials, builder's hardware, sanitary ware or other articles of a kind ordinarily installed by builders as fixtures, input tax on the supply or importation of the goods shall be excluded from any credit under sections 3 and 4 of the Act.

9.—(1) Input tax on the supply to a taxable person of goods or services used or to be used by him for the purpose of business entertainment shall be excluded from any credit under sections 3 and 4 of the Act unless the entertainment is provided for an overseas customer of his and is of a kind and on a scale which is reasonable, having regard to all the circumstances.

(2) Where, by reason of the operation of paragraph (1) hereof, a taxable person has claimed no input tax on the supply to him of any goods, tax shall be charged on a supply by him of the goods, not being a letting on hire, as if that supply were for a consideration equal to the excess of—

(a) the consideration for which the goods are supplied, over

(b) the consideration for which the goods were acquired,

and accordingly shall not be charged unless there is such an excess.

Treatment of Transactions

10.—(1) Each of the following descriptions of transactions shall be treated as neither a supply of goods nor a supply of services :

- (a) the disposal of any of the goods listed in article 11 by a person who repossessed them under the terms of a finance agreement ;
- (b) the disposal of any of the goods listed in article 11 by an insurer who acquired them in the settlement of a claim under a policy of insurance ;
- (c) the disposal of a boat by a mortgagee after he had taken possession thereof under the terms of a marine mortgage ;
- (d) the disposal of an aircraft by a mortgagee after he had taken possession thereof under the terms of an aircraft mortgage ;

if, in each case, the goods so disposed of are in the same condition at the time of disposal as they were when they were repossessed, acquired or taken into possession, as the case may be, and if a supply of them in the United Kingdom by the person from whom in each case they were obtained would not have been chargeable with tax, or would have been chargeable with tax on less than the full value of such supply.

(2) Paragraph (1) of this article shall not apply to reimported goods which were previously exported from the United Kingdom or the Isle of Man free of tax chargeable under Part I of the Act or value added tax chargeable under Part I of the Manx Act by reason of the zero-rating provisions of the Act or the Manx Act or regulations made thereunder, or to imported goods which have not borne tax chargeable under either of those Parts in the United Kingdom or the Isle of Man.

11. The goods referred to in paragraphs (a) and (b) of article 10(1) are as follows :

- (a) works of art, antiques and collectors' pieces ;
- (b) caravans ;
- (c) motor cycles ;
- (d) boats and outboard motors ;
- (e) electronic organs ;
- (f) aircraft ;
- (g) firearms.

12. There shall be treated as neither a supply of goods nor a supply of services—

(1) the following supplies by a person of assets of his business :

- (a) their supply to a person to whom he transfers his business as a going concern—
 - (i) where the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor, and
 - (ii) where, in a case in which the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, taxable person or a person defined as such in section 2(2) of the Manx Act ;

(b) their supply to a person to whom he transfers part of his business as a going concern—

- (i) where that part is capable of separate operation,

- (ii) where the assets are to be used by the transferee in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by the transferor in relation to that part, and
 - (iii) where, in a case in which the transferor is a taxable person, the transferee is already, or immediately becomes as a result of the transfer, a taxable person or a person defined as such in section 2(2) of the Manx Act ;
- (2) the assignment by an owner of goods comprised in a hire-purchase or conditional sale agreement of his rights and interest thereunder, and the goods comprised therein, to a bank or other financial institution.
- 13.** The following description of transaction shall be treated as a supply of services and not as a supply of goods :
- the exchange of a reconditioned article for an unserviceable article of a similar kind by a person who regularly offers in the course or furtherance of his business to provide a reconditioning facility by that means.

Self-Supply

14.—(1) Where a person in the course or furtherance of any business carried on by him produces printed matter and the printed matter—

- (a) is not supplied to another person or incorporated in other goods produced in the course or furtherance of that business ; but
- (b) is used by him for the purpose of a business carried on by him ;

then, subject to paragraph (2) below, the printed matter shall be treated for the purposes of Part I of the Act as both supplied to him for the purpose of that business and supplied by him in the course or furtherance of that business.

(2) Paragraph (1) of this article does not apply if—

- (a) all the supplies made by that person in the United Kingdom or the Isle of Man in the course or furtherance of any business carried on by him are taxable supplies or are treated as taxable supplies by virtue of regulations under sections 3 and 4 of the Act ; or
- (b) the value of the supplies falling to be treated as made by and to that person would not, if those were the only supplies made or to be made by that person, make him liable to be registered for value added tax pursuant to the provisions of Schedule 1 to the Act ; or
- (c) the Commissioners, being satisfied that the tax (if any) which would be attributable to the supplies after allowing for any credit under sections 3 and 4 of the Act would be negligible, have given, and have not withdrawn, a direction that the paragraph is not to apply.

(3) The preceding provisions of this article shall apply in relation to any bodies corporate which are treated for the purposes of section 21 of the Act as members of a group as if those bodies were one person, but any printed matter which would fall to be treated as supplied to and by that person shall be treated as supplied to and by the representative member.

J. A. Cope,
John Selwyn Gummer,
Two of the Lords Commissioners
of Her Majesty's Treasury.

3rd December 1981.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order re-enacts with modifications the Value Added Tax (Special Provisions) Order 1977, as amended. The following are the principal changes.

The special scheme of relief for certain used goods provided for in Articles 4, 5 and 7 is extended to cover used firearms. "Firearms" is defined in Article 2 of the Order.

Hand-painted and hand-decorated manufactured articles, such as pottery, are excluded from the relief available for works of art under the special scheme of relief for works of art, antiques and collectors' pieces.

Article 9 disallows the deduction of input tax on the purchase of goods or services used or to be used for business entertainment (other than that incurred in respect of overseas customers) and provides for tax to be charged on the difference between the buying price and the selling price on sales of goods on which no input tax has been deducted because of this provision.

SI 1981/1741
ISBN 0-11-017741-X



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