

1988 No. 1174

**VALUE ADDED TAX**

**The Value Added Tax (Goods Imported for Private Purposes) Relief Order 1988**

<i>Made - - - -</i>	<i>7th July 1988</i>
<i>Laid before the House of Commons</i>	<i>8th July 1988</i>
<i>Coming into force</i>	<i>1st August 1988</i>

Whereas it appears necessary to the Treasury that the relief from value added tax provided by this Order should be allowed with a view to conforming with Article 2.2 of Council Directive No. 77/388/EEC(a) and Article 95 of the EEC Treaty (b):

Now, therefore, the Lords Commissioners of Her Majesty's Treasury, by virtue of the powers conferred on them by section 19(1) of the Value Added Tax Act 1983 (c) 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 (Goods Imported for Private Purposes) Relief Order 1988 and shall come into force on 1st August 1988.

**Interpretation**

2. In this Order—

“the Commissioners” means the Commissioners of Customs and Excise;

“competent authority” means an authority having powers under the laws in force in any member State to accept payment of tax on the importation of goods;

“exportation” means the exportation from a member State which immediately precedes the importation into the United Kingdom;

“last taxable transaction” means the most recent supply or previous importation, whichever is the later, upon which tax was paid in a member State;

“member State” means a state which is a member of the European Economic Community;

“proper officer” means the person appointed or authorised by the Commissioners to act in respect of any matter in the course of his duties;

“tax” means value added tax as referred to in Council Directive No. 77/388/EEC;

“taxable person” has the meaning ascribed to it in section 2(2) of the Value Added Tax Act 1983.

**Relief for goods imported from another member State**

3. Subject to the provisions of this Order where goods are imported from another member State into the United Kingdom, the tax chargeable on the importation shall be

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(a) OJ No. L145, 13.6.1977, p.1.

(b) Cmnd. 7460 to which the United Kingdom acceded by the Treaty of Accession (Cmnd. 7463) and to which there are amendments not relevant to this Order.

(c) 1983 c.55.

reduced to an amount calculated in accordance with article 5 of this Order, if the Commissioners are satisfied that—

- (a) the importer is not a taxable person or, if he is, the goods are imported otherwise than in the course of his business;
- (b) the goods, prior to the importation into the United Kingdom, were supplied in or imported into a member State and that supply or importation was the last taxable transaction; and
- (c) the tax paid at the time of the last taxable transaction, or any part of it, has not been and will not be repaid or deducted as input tax in any member State.

#### **Conditions of relief**

- 4. No relief under article 3 of this Order shall be afforded unless—
  - (a) a claim is made by the importer within such time and in such form and manner as the Commissioners may direct;
  - (b) the claim referred to in paragraph (a) above is accompanied—
    - (i) where the last taxable transaction was a supply, by an invoice or similar document or by a copy thereof identifying the goods and showing the price paid and the rate of tax or the amount of tax charged when the goods were supplied;
    - (ii) where the last taxable transaction was an importation, by an importation document which was accepted or issued by the competent authority of the member State into which the goods were imported and which identifies the goods and shows their value for customs purposes and the rate of tax or the amount of tax paid upon importation or by a copy of such document; and
  - (c) the goods are produced by the importer for inspection by the proper officer.

#### **Method of calculating the relief**

5.—(1) Where article 3 of this Order applies, the tax chargeable on the importation shall be calculated by—

- (a) excluding the residue of the tax paid in a member State from the value of the goods on which tax is chargeable; and
- (b) deducting the residue of the tax paid in a member State from the tax which, but for this Order, would be chargeable on the importation.

(2) The residue of tax referred to in paragraph (1) above shall be—

- (a) where the value of the goods has decreased in the period between the last taxable transaction and exportation, the amount of tax paid in a member State less the percentage by which the value of the goods has decreased;
- (b) in any other case, the whole amount of the tax paid in a member State.

(3) Where any sum relevant to this Order is expressed in a currency other than sterling that sum shall be converted into sterling at the rate of exchange in force at the time the tax becomes chargeable in accordance with the Community rules applicable to valuation for customs purposes.

(4) Where the calculation referred to in paragraph (1) above produces a negative amount there shall not be any refund of tax.

*Mark Lennox-Boyd*  
*Michael Neubert*  
Two of the Lords Commissioners  
of Her Majesty's Treasury

7th July 1988

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order gives effect to the Community obligation to implement Article 2.2 of Council Directive 77/388/EEC (OJ No. L145, 13.6.1977) as interpreted by the European Court of Justice in Case 15/81 (Gaston Schul Douane-expediteur B.V. - v - Inspecteur der Invoerrechten en Accijnzen [1982] ECR 1409) and Case 47/84 (Staatssecretaris van Financien - v - Gaston Schul Douane-expediteur B.V. [1985] ECR 1501) which established that tax chargeable on the importation of goods for private purposes is to take account of tax paid in a member State which is still contained in the value of the goods at the time of the importation.

Article 3 provides for relief from payment of the full tax which would otherwise be chargeable and specifies qualifying importers and goods.

Article 4 specifies conditions which must be met for relief to be allowed.

Article 5 specifies the method of calculating the relief.