

Order made by the Treasury, laid before the House of Commons under section 97(3) of the Value Added Tax Act 1994, for approval by a resolution of that House within twenty-eight days beginning with the day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

1995 No. 1666

VALUE ADDED TAX

**The Value Added Tax (Input Tax)
(Amendment) (No. 3) Order 1995**

<i>Made</i>	- - - -	<i>29th June 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>30th June 1995</i>
<i>Coming into force</i>	- -	<i>1st August 1995</i>

The Treasury, in exercise of the powers conferred on them by section 25(7) of the Value Added Tax Act 1994(1) and of all other powers conferred on them in that behalf, hereby make the following Order:

1. This Order may be cited as the Value Added Tax (Input Tax) (Amendment) (No. 3) Order 1995 and shall come into force on 1st August 1995.
2. The Value Added Tax (Input Tax) Order 1992(2) shall be amended in accordance with articles 3 to 8 of this Order.
3. In article 4(3)(3) after sub-paragraph (a) there shall be inserted—
“*(aa)* a supply which, for the purposes of the charge to VAT, was treated as if it were for a consideration calculated in accordance with article 7(4) below;”.
4. In article 7(1)—
 - (a) after the words “paragraph (2)” there shall be inserted “to (2H)”; and
 - (b) in sub-paragraph (a) after the words “the supply” there shall be inserted “(including a letting on hire)”.
5. For article 7(2) there shall be substituted the following—
“(2) Paragraph (1) above does not apply where—

(1) 1994 c. 23.
(2) S.I.1992/3222; relevant amendments were made by S.I. 1993/2954 and S.I. 1995/1267.
(3) Article 4 was substituted by S.I. 1995/1267.

- (a) the motor car is—
 - (i) a qualifying motor car;
 - (ii) let on hire or supplied to, or acquired from another member State or imported by, a taxable person; and
 - (iii) the relevant condition is satisfied;
- (b) the supply is a letting on hire of a motor car which is not a qualifying motor car;
- (c) the motor car is unused and is supplied to a taxable person whose only taxable supplies are concerned with the letting of motor cars on hire to another taxable person whose business consists predominantly of making supplies of a description falling within item 14 of Group 12 of Schedule 8 to the Act; or
- (d) the motor car is unused and is supplied on a letting on hire to a taxable person whose business consists predominantly of making supplies of a description falling within item 14 of Group 12 of Schedule 8 to the Act, by a taxable person whose only taxable supplies are concerned with the letting on hire of motor cars to such a taxable person.”

6. After article 7(2) there shall be inserted the following—

“(2A) Subject to paragraph (2B) and (2C) below, for the purposes of paragraph (2)(a) above a motor car is a qualifying motor car if—

- (a) it has never been supplied, acquired from another member State, or imported in circumstances in which the VAT on that supply, acquisition or importation was wholly excluded from credit as input tax by virtue of paragraph (1) above; or
- (b) a taxable person has elected for it to be treated as such.

(2B) A taxable person may only elect for a motor car to be treated as a qualifying motor car if it—

- (a) is first registered on or after 1st August 1995;
- (b) was supplied to, or acquired from another member State or imported by, him prior to that date in circumstances in which the VAT on that supply, acquisition or importation was wholly excluded from credit as input tax by virtue of paragraph (1) above; and
- (c) had not been supplied on a letting on hire by him prior to 1st August 1995.

(2C) A motor car that is supplied, acquired from another member State or imported on or after 1st August 1995 and which would, apart from this paragraph, be a qualifying motor car by virtue of sub-paragraph (a) of paragraph (2A) above shall not be such a car if it was supplied on a letting on hire prior to that date by the person to whom it is supplied or by whom it is acquired or imported (as the case may be).

(2D) References in this article to registration of a motor car mean registration in accordance with section 21 of the Vehicle Excise and Registration Act 1994(4).

(2E) For the purposes of paragraph (2)(a) above the relevant condition is that the letting on hire, supply, acquisition or importation (as the case may be) is to a taxable person who intends to use the motor car either—

- (a) exclusively for the purposes of a business carried on by him, but this is subject to paragraph (2G) below; or
- (b) primarily for a relevant purpose.

(2F) For the purposes of paragraph (2E) above a relevant purpose, in relation to a motor car which is let on hire or supplied to, or acquired or imported by, a taxable person (as the case may be), is any of the following purposes—

- (a) to provide it on hire with the services of a driver for the purpose of carrying passengers;
- (b) to provide it for self-drive hire; or
- (c) to use it as a vehicle in which instruction in the driving of a motor car is to be given by him.

(2G) A taxable person shall not be taken to intend to use a motor car exclusively for the purposes of a business carried on by him if he intends to—

- (a) let it on hire to any person either for no consideration or for a consideration which is less than that which would be payable in money if it were a commercial transaction conducted at arms length; or
- (b) make it available (otherwise than by letting it on hire) to any person (including, where the taxable person is an individual, himself, or where the taxable person is a partnership, a partner) for private use, whether or not for a consideration.

(2H) Where paragraph (1) above applies to a supply of a motor car on a letting on hire it shall apply to the tax charged on that supply as if for the word “tax” there were substituted “one half of the tax”.

7. In article 7(3), sub-paragraph (a) shall be deleted.

8. In article 7(4), for the words “in respect of which tax has been excluded from any credit” there shall be substituted “(other than one which is a qualifying motor car by virtue of paragraph (2A)(b) above) in respect of which tax has been wholly excluded from credit”.

9. The Value Added Tax (Input Tax) (Amendment) Order 1993(5) is hereby revoked.

29th June 1995

Tim Wood
Andrew Mitchell
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st August 1995, further amends the Value Added Tax (Input Tax) Order 1992 (No. 3222) (the principal Order) to enable VAT charged on the supply, acquisition from another member State or importation of motor cars to be recovered as input tax in a broader range of circumstances and to introduce a new 50 per cent input tax recovery restriction on leasing charges where there is any private use of the motor car.

Article 3 inserts a new sub-paragraph in article 4 of the principal Order to exclude from recovery as input tax any VAT charged on a supply of a motor car supplied under the margin scheme applicable to motor cars which have been subject to an earlier input tax restriction.

Article 4 amends article 7(1) of the principal Order to make its operation subject to the additional paragraphs inserted into article 7 by article 6 of the Order and to expressly include the letting on hire of motor cars in the supplies to which article 7(1) applies.

Article 5 substitutes a revised paragraph (2) in article 7 of the principal Order which specifies those supplies, acquisitions from other member States or importations of motor cars to which paragraph 1 of article 7 does not apply.

Article 6 inserts new paragraphs into article 7 of the principal Order. Paragraph (2A) defines a “qualifying motor car” as one which has either never been subject to the full input tax restriction imposed by paragraph (1) of the article or one in respect of which the taxable person has made an election to have it treated as such. The election, which can only be exercised in the circumstances set out in the new paragraph (2B), enables a taxable person to cause a motor car which is first registered after 1st August 1995 but in respect of which a VAT invoice or payment has been made prior to that date still to be treated as qualifying motor car. The new paragraph (2C) excludes from being a qualifying motor car a motor car which is supplied, acquired from another member State or imported after 1st August but which has been the subject of a supply on a letting on hire prior to that date. The new paragraph (2E), together with paragraphs (2F) and (2G) define, for the purpose of the new paragraph (2)(a) of article 7 of the principal Order, the “relevant condition” which has to be satisfied before a supply, acquisition from another member State or importation of a qualifying motor car is excluded from the operation of paragraph (1). Finally, the new paragraph (2H) modifies the operation of paragraph (1) when it applies to a letting on hire of a motor car so that one half of the VAT charged on the leasing charges is excluded from credit as input tax.

Article 7 deletes article 7(3)(a) of the principal Order which ceases to be relevant following the amendments to article 7(2).

Article 8 amends article 7(4) of the principal Order to expressly exclude from the margin scheme applicable to the supply of motor cars which have been subject to the restriction on input tax recovery any motor car which a taxable person has elected to have treated as a qualifying motor car.

Finally, article 9 revokes the Value Added Tax (Input Tax) (Amendment) Order 1993 (No. 2954) which is spent.