
STATUTORY INSTRUMENTS

1999 No. 3116

VALUE ADDED TAX

The Value Added Tax (Investment Gold) Order 1999

<i>Made</i>	- - - -	<i>19th November 1999</i>
<i>Laid before the House of Commons</i>	- - - -	<i>22nd November 1999</i>
<i>Coming into force</i>	- -	<i>1st January 2000</i>

The Treasury, in exercise of the powers conferred on them by sections 31(2), 55(6) and 96(9) of the Value Added Tax Act 1994⁽¹⁾ and section 13(2) and (4) of the Finance Act 1999⁽²⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Value Added Tax (Investment Gold) Order 1999 and shall come into force on 1st January 2000 and shall have effect in relation to supplies made on or after that date.

(2) In this Order—

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

“the Act” means the Value Added Tax Act 1994;

“relevant supply” means a supply of investment gold within the meaning of item 1 or 2 of Group 15 of Schedule 9 to the Act made by a taxable person, to another taxable person and

“relevant supplies” shall be construed accordingly.

Exemption for investment gold

2.—(1) Schedule 9 to the Act shall be varied in accordance with the following paragraphs of this article.

(2) In Part I there shall be inserted after the entry relating to Insurance the following entry—“Investment gold Group 15”.

(3) In Part II after Group 14⁽³⁾ there shall be added the following—

(1) 1994 c. 23.

(2) 1999 c. 16.

(3) Group 14 was inserted by S.I. 1999/2833 with effect from 1st March 2000.

“GROUP 15—INVESTMENT GOLD

Item No.

1. The supply of investment gold.
2. The grant, assignment or surrender of any right, interest, or claim in, over or to investment gold if the right, interest or claim is or confers a right to the transfer of the possession of investment gold.
3. The supply, by a person acting as agent for a disclosed principal, of services consisting of—
 - (a) the effecting of a supply falling within item 1 or 2 that is made by or to his principal, or
 - (b) attempting to effect a supply falling within item 1 or 2 that is intended to be made by or to his principal but is not in fact made.

Notes:

- (1) For the purposes of this Group “investment gold” means—
 - (a) gold of a purity not less than 995 thousandths that is in the form of a bar, or a wafer, of a weight accepted by the bullion markets;
 - (b) a gold coin minted after 1800 that—
 - (i) is of a purity of not less than 900 thousandths,
 - (ii) is, or has been, legal tender in its country of origin, and
 - (iii) is of a description of coin that is normally sold at a price that does not exceed 180% of the open market value of the gold contained in the coin; or
 - (c) a gold coin of a description specified in a notice that has been published by the Commissioners for the purposes of this Group and has not been withdrawn.
- (2) A notice under Note (1)(c) may provide that a description specified in the notice has effect only for the purposes of supplies made at times falling within a period specified in the notice.
- (3) Item 2 does not include—
 - (a) the grant of an option, or
 - (b) the assignment or surrender of a right under an option at a time before the option is exercised.
- (4) This Group does not include a supply—
 - (a) between members of the London Bullion Market Association, or
 - (b) by a member of that Association to a taxable person who is not a member or by such a person to a member.”.

Election to waive exemption

3.—(1) Subject to paragraphs (2), (6), (7) and (8) below, where an election under this paragraph has effect in relation to a relevant supply by a taxable person who produces or transforms investment gold, which supply would (apart from this paragraph) fall within item 1 or 2 of Group 15 of Schedule 9 to the Act, the supply shall not fall within that Group.

(2) An election under paragraph (1) above (or an election having the like effect) or an election under paragraph (5) below shall apply in respect of an individual relevant supply made and shall have effect on or after the day from which the election is made.

(3) Subject to complying with such conditions as the Commissioners may direct in notices published by them for the purposes of this Order, the Commissioners may permit a taxable person to make elections in respect of relevant supplies by him of a description falling within paragraph (4) below having the like effect to an election under paragraph (1) above.

(4) The supplies referred to in paragraph (3) above are those relevant supplies where the investment gold supplied falls within the description in Note (1)(a) contained in Group 15 of Schedule 9 to the Act, made by a taxable person who in the normal course of his business makes supplies of gold for industrial purposes.

(5) Subject to paragraphs (6) to (8) below, where a taxable person has made a relevant supply in respect of which an election under paragraph (1) above (or an election having the like effect) has been made, the supply of services by his agent directly linked to the relevant supply and which supply of services would (apart from this paragraph) fall within item 3 of Group 15 of Schedule 9 to the Act shall, if the agent so elects, not fall within that Group.

(6) A person making a relevant supply in respect of which an election to waive exemption under this article has been made shall comply with such conditions as the Commissioners may specify in notices published by them for the purposes of this Order including conditions relating to the notification of an election.

(7) An election made under paragraph (1) above (or an election having the like effect) and an election made under paragraph (5) above shall be irrevocable.

(8) Where the Commissioners have permitted a person to make elections under paragraph (3) above, they may withdraw that permission where it appears to them to be necessary to do so for the protection of the revenue and accordingly the permission shall cease to have effect from such date as may be specified in a notification from the Commissioners.

Customers to account for tax on supplies of investment gold

4. Section 55(1) to (4) of the Act shall apply to all supplies of a description which but for an election made under article 3 above would fall within item 1 or 2 of Group 15 of Schedule 9 to the Act.

19th November 1999

Bob Ainsworth
David Jamieson
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st January 2000, implements the exemption for investment gold, the option to tax and the “reverse charge” provisions of Council Directive 98/80/EC, 12th October 1998—Special scheme for investment gold—amending Council Directive 77/388/EEC.

Article 2 adds a new group 15, “Investment Gold”, to Schedule 9 to the Value Added Tax Act 1994 (c. 23) (exemptions). The new Group 15 has three items and 4 notes. It exempts certain supplies involving investment gold. Item 1 exempts supplies of investment gold. Item 2 exempts supplies conferring rights to possession of investment gold including supplies of unallocated investment gold, as well as loans, swaps, forward and future contracts involving investment gold. Item 3 exempts supplies by agents acting in the name of their principal in respect of supplies exempted under item 1 or 2.

Note 1 to the new group 15 defines “investment gold”. It allows the Commissioners to publish in a notice a list of coins qualifying as investment gold.

Note 2 permits the Commissioners to specify in a notice the period for which the list of gold coins published shall have effect.

Note 3 excludes from item 2 the grant of an option or the transfer or surrender of an option.

Note 4(a) disapplies the exemption for supplies involving investment gold between members of the London Bullion Market Association which are zero-rated under article 4 of the Value Added Tax (Terminal Markets) Order 1973 (S.I.1973/173).

Note 4(b) disapplies the exemption with respect to certain transactions involving investment gold between a member of the London Bullion Market Association and a non-member. Special arrangements for these supplies are set out in article 5 to 7 of the Value Added Tax (Terminal Markets) Order 1973.

Article 3 prescribes the circumstances in which traders may opt to tax supplies involving investment gold (opted supplies) and allows the Commissioners to specify conditions in a notice published by them.

Article 4 ensures that all opted supplies of investment gold fall under Section 55 of the Act (Customers to account for tax on supplies of gold etc.).