

---

STATUTORY INSTRUMENTS

---

**2005 No. 1724**

**VALUE ADDED TAX**

**The Value Added Tax (Disclosure of Avoidance Schemes) (Designations) (Amendment) Order 2005**

*Approved by the House of Commons*

<i>Made</i>	- - - -	<i>29th June 2005</i>
<i>Laid before the House of Commons</i>	- - - -	<i>29th June 2005</i>
<i>Coming into force</i>	- -	<i>1st August 2005</i>

Whereas it appears to the Treasury that the schemes described in article 3 of this Order satisfy the matters specified in paragraph 3(1) of Schedule 11A to the Value Added Tax Act 1994<sup>(1)</sup>;

And whereas it appears to the Treasury that the provision described in article 4 of this Order satisfies the matters specified in paragraph 4(1) of Schedule 11A to that Act;

Now, therefore, the Treasury, in exercise of the powers conferred upon them by paragraph 3(1), (2), and (3), and paragraph 4(1) and (2) of Schedule 11A to that Act hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Value Added Tax (Disclosure of Avoidance Schemes) (Designations) (Amendment) Order 2005 and comes into force on 1st August 2005.

2. The Value Added Tax (Disclosure of Avoidance Schemes) (Designations) Order 2004<sup>(2)</sup> is amended as follows.

**Designation of avoidance schemes**

3. At the end of Schedule 1 insert—

---

*“Cross-border face-value vouchers*

Any scheme comprising or including the supply of a relevant service by a person belonging in the United Kingdom (the UK supplier) to a person belonging in a member **9**

---

(1) 1994 c. 23; Schedule 11A was inserted by section 19 of, and Schedule 2 to, the Finance Act 2004 (c. 12).  
(2) S.I. 2004/1933.

State other than the United Kingdom (the non-UK recipient) where—

- (a) the service is used, or intended to be used, in whole or in part, by the non-UK recipient or any other person belonging in another member State for the purposes of supplying a relevant service to a person belonging in the United Kingdom (the retail supply);
- (b) the recipient of the retail supply uses a face-value voucher issued by a person belonging in a country other than the United Kingdom to obtain that supply;
- (c) the person making the retail supply does not account for VAT on that supply in the United Kingdom or any other member State; and
- (d) the UK supplier and the person making the retail supply are connected persons.

#### Notes

(1) “Face-value voucher” means tokens, stamps or vouchers of a description falling within paragraph 1(1) of Schedule 10A(3) to the Act (face-value vouchers).

(2) “Relevant service” means a supply of a description specified in any of paragraphs 7A to 7C(4) of Schedule 5 to the Act (services supplied where received).

(3) References in this scheme to the retail supply shall not include any supply of a relevant service made to a taxable person.

#### *Surrender of relevant lease*

Any scheme comprising or including the surrender by an occupier of a building of a relevant lease, tenancy or licence to occupy where— **10**

- (a) the occupier or any person connected to him is a relevant person;

---

(3) Schedule 10A was inserted by section 19 of, and paragraph 2 of Schedule 1 to, the Finance Act 2003 (c. 14).

(4) Paragraph 7A was inserted by S.I.1997/1523 and substituted by S.I. 2003/863; paragraphs 7B and 7C were inserted by S.I. 2003/863.

- (b) the building is a capital item for the purposes of regulation 113 of the Value Added Tax Regulations 1995;<sup>(5)</sup>
- (c) before the surrender the occupier paid relevant VAT and was not entitled to full credit for, or refund of, that VAT under any provision of the Act or regulations;
- (d) following the surrender the occupier continues to occupy at least 80% of the area previously occupied; and
- (e) following the surrender the occupier pays no relevant VAT or pays less than 50% of the relevant VAT paid before the surrender.

#### Notes

(1) Relevant lease, tenancy or licence to occupy means any lease of, tenancy of or licence to occupy the building granted or assigned to the occupier where—

- (a) an election under paragraph 2 of Schedule 10<sup>(6)</sup> (election to waive exemption) has been made in relation to the building; and
- (b) that election has not been revoked in accordance with paragraph 3(5) of Schedule 10<sup>(7)</sup>.

(2) Relevant person means any person who—

- (a) is a lessor of the building;
- (b) is an owner of the building for the purposes of regulation 113 of the VAT Regulations 1995<sup>(8)</sup>; and
- (c) has made an election under paragraph 2 of Schedule 10 in relation to the building.

(3) Relevant VAT means VAT on rent paid or payable by the occupier in relation to the building.

---

<sup>(5)</sup> S.I. 1995/2518; to which relevant amendments were made by S.I. 1997/1614.

<sup>(6)</sup> Paragraph 2 was amended by S.I. 1994/3013, S.I. 1995/279, sections 36, 37 and 113 of , and Part IV of Schedule 18 to, the Finance Act 1997 (c. 16), S.I. 1997/51, S.I.1999/593 and S.I. 2004/778.

<sup>(7)</sup> Paragraph 3(5) was substituted by S.I. 1995/279.

<sup>(8)</sup> S.I. 1995/2518; to which relevant amendments were made by S.I. 1997/1614.

(4) Surrender includes any termination by the occupier of the relevant lease, tenancy or licence to occupy where he has entered into any agreement, arrangement or understanding (whether legally binding or not) with the lessor regarding that termination.

(5) Building includes any part of that building.”

---

#### **Designation of provision included in or associated with avoidance schemes**

4. In Schedule 2 after paragraph 7 insert—

*“Issue of face-value vouchers*

8.—(1) The issue of face-value vouchers for consideration.

(2) Paragraph 1 does not apply where—

- (a) the issuer expects, on reasonable grounds, that at least 75% of the face-value of the vouchers will be redeemed within three years of the date on which the vouchers were issued; and
- (b) the vouchers were issued to relevant persons.

(3) A relevant person is

- (a) any person who is not connected with the issuer; or
- (b) any body corporate—
  - (i) which is a member of the same VAT group as the issuer for the purposes of section 43 of the Act; and
  - (ii) which does not intend to supply the vouchers, directly or indirectly, to any person connected with the issuer outside that VAT group.

(4) “Face-value vouchers” means tokens, stamps or vouchers of a description falling within paragraph 1(1) of Schedule 10A(9) to the Act (face-value vouchers) and “face-value” has the meaning given by paragraph 1(2) of that Schedule.”

29th June 2005

*Joan Ryan*  
*Tom Watson*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

---

(9) Schedule 10A was inserted by paragraph 2 of Schedule 1 to the Finance Act 2003 (c. 14).

---

## EXPLANATORY NOTE

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

This Order, which comes into force on 1st August 2005, amends the Value Added Tax (Disclosure of Avoidance Schemes)(Designations) Order 2004 (S.I.2004/1933)(“the Principal Order”).

Article 3 amends Schedule 1 to the Principal Order by designating two new tax avoidance schemes for the purposes of paragraph 3(1) of Schedule 11A to the Value Added Tax Act 1994 and allocating them reference numbers 9 and 10 respectively.

Article 4 amends Schedule 2 to the Principal Order by designating a new provision included in or associated with tax avoidance schemes for the purposes of paragraph 4 of Schedule 11A to that Act.

Schemes designated by the Principal Order and schemes that include or are associated with provisions designated by that Order are subject to the provisions of Schedule 11A requiring, in the circumstances specified in the Schedule, notification to the Commissioners for Her Majesty’s Revenue and Customs(10).

---

(10) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.