

1990 No. 2553

VALUE ADDED TAX

The Value Added Tax (Construction of Dwellings and Land) Order 1990

Approved by the House of Commons

Made - - - - - 13th December 1990

Laid before the House of Commons 17th December 1990

Coming into force - - - 1st February 1991

The Treasury, in exercise of the powers conferred on them by sections 16(4), 17(2) and 48(6) of the Value Added Tax Act 1983(a) and of all powers enabling them in that behalf, hereby make the following Order:

1. This Order may be cited as the Value Added Tax (Construction of Dwellings and Land) Order 1990 and shall come into force on 1st February 1991.

2. For Note (7) in Group 8 of Schedule 5 to the Value Added Tax Act 1983(b) there shall be substituted the following—

“(7) The grant of an interest in, or in any part of—

- (a) a building designed as a dwelling or number of dwellings; or
- (b) the site of such a building,

is not within item 1 if—

- (i) the interest granted is such that the grantee is not entitled to reside in the building, or part, throughout the year; or
- (ii) residence there throughout the year, or the use of the building or part as the grantee’s principal private residence, is prevented by the terms of a covenant, statutory planning consent or similar permission.”

3. Group 1 of Schedule 6 to the Value Added Tax Act 1983(c) shall be varied as follows—

(a) for paragraph (d) of item 1 there shall be substituted the following—

“(d) the grant of any interest in, right over or licence to occupy holiday accommodation;”;

(b) for Note (10) there shall be substituted the following—

“(10) Paragraph (d) includes—

- (a) any grant excluded from item 1 of Group 8 of Schedule 5 to this Act by Note (7) in that Group;

(a) 1983 c.55.

(b) Group 8 was amended by paragraph 1 of Schedule 3 to the Finance Act 1989 (c.26).

(c) Group 1 was amended by paragraph 4 of Schedule 3 to the Finance Act 1989.

- (b) any supply made pursuant to a tenancy, lease or licence under which the grantee is or has been permitted to erect and occupy holiday accommodation.”;
- (c) after Note (10) there shall be inserted the following two Notes (10A) and (10B)–
 - “(10A) Paragraph (d) does not include a grant in respect of a building or part which is not a new building of–
 - (a) the fee simple, or
 - (b) a tenancy, lease or licence to the extent that the grant is made for a consideration in the form of a premium.
 - (10B) “Holiday accommodation” includes any accommodation in a building, hut (including a beach hut or chalet), caravan, houseboat or tent which is advertised or held out as holiday accommodation or as suitable for holiday or leisure use, but excludes any accommodation within paragraph (c).”.

Irvine Patrick
Sydney Chapman

13th December 1990

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order substitutes a new Note (7) in Group 8 of Schedule 5 to the Value Added Tax Act 1983 (c.55.). The new Note excludes from zero-rating any supply by a developer of a dwelling, and now a site for a dwelling, where the owner or lessee is not entitled to live throughout the year because the terms of the sale or lease so prevent or residence throughout the year or use of the dwelling as a principal private residence is prevented by the terms of a covenant, statutory planning consent or similar permission.

Article 3 amends Group 1 of Schedule 6 to the Value Added Tax Act 1983. Paragraph (d) in item 1 and Note (10) are substituted, and two additional Notes (10A) and (10B) are inserted. Paragraph (d) excludes from exemption, and thus standard-rates, any supply of holiday accommodation without regard to the length of the term granted. "Holiday accommodation" is redefined in Notes (10), (10A) and (10B). Note (10) has the effect of taxing:

- (a) supplies excluded from zero-rating by Note (7) to Group 8 of Schedule 5 to the Value Added Tax Act 1983, and
- (b) supplies of sites for holiday accommodation.

Note (10A) exempts from value added tax the freehold or leasehold sale of holiday accommodation which is not newly constructed. Note (10B) redefines "holiday accommodation" to include beach huts and chalets, as well as any accommodation in a building, caravan, houseboat or tent which is advertised or held out as holiday accommodation or as suitable for holiday or leisure use, but makes it clear that hotel and similar accommodation is not taxed under this paragraph.