
STATUTORY INSTRUMENTS

1997 No. 2744

**The Value Added Tax (Drugs, Medicines
and Aids for the Handicapped) Order 1997**

7. After Note (5), there shall be inserted the following Notes—

“(5A) In item 1 the reference to personal use does not include any use which is, or involves, a use by or in relation to an individual while that individual, for the purposes of being provided (whether or not by the person making the supply) with medical or surgical treatment, or with any form of care—

- (a) is an in-patient or resident in a relevant institution which is a hospital or nursing home; or
- (b) is attending at the premises of a relevant institution which is a hospital or nursing home.

(5B) Subject to Notes (5C) and (5D), in item 2 the reference to domestic or personal use does not include any use which is, or involves, a use by or in relation to a handicapped person while that person, for the purposes of being provided (whether or not by the person making the supply) with medical or surgical treatment, or with any form of care—

- (a) is an in-patient or resident in a relevant institution; or
- (b) is attending at the premises of a relevant institution.

(5C) Note (5B) does not apply for the purpose of determining whether any of the following supplies falls within item 2, that is to say—

- (a) a supply to a charity;
- (b) a supply by a person mentioned in any of paragraphs (a) to (g) of Note (5H) of an invalid wheelchair or invalid carriage;
- (c) a supply by a person so mentioned of any parts or accessories designed solely for use in or with an invalid wheelchair or invalid carriage.

(5D) Note (5B) applies for the purpose of determining whether a supply of goods by a person not mentioned in any of paragraphs (a) to (g) of Note (5H) falls within item 2 only if those goods are—

- (a) goods falling within paragraph (a) of that item;
- (b) incontinence products and wound dressings; or
- (c) parts and accessories designed solely for use in or with goods falling within paragraph (a) of this Note.

(5E) Subject to Note (5F), item 2 does not include—

- (a) a supply made in accordance with any agreement, arrangement or understanding (whether or not legally enforceable) to which any of the persons mentioned in paragraphs (a) to (g) of Note (5H) is or has been a party otherwise than as the supplier; or
- (b) any supply the whole or any part of the consideration for which is provided (whether directly or indirectly) by a person so mentioned.

(5F) A supply to a handicapped person of an invalid wheelchair or invalid carriage is excluded from item 2 by Note (5E) only if—

- (a) that Note applies in relation to that supply by reference to a person falling within paragraph (g) of Note (5H); or
- (b) the whole of the consideration for the supply is provided (whether directly or indirectly) by a person falling within any of paragraphs (a) to (f) of Note (5H).

(5G) In Notes (4), (5C) and (5F), the references to an invalid wheelchair and to an invalid carriage do not include references to any mechanically propelled vehicle which is intended or adapted for use on roads.

(5H) The persons referred to in Notes (5C) to (5F) are—

- (a) a Health Authority or Special Health Authority in England and Wales;
- (b) a Health Board or Special Health Board in Scotland;
- (c) a Health and Social Services Board in Northern Ireland;
- (d) the Common Services Agency for the Scottish Health Service, the Northern Ireland Central Services Agency for Health and Social Services and the Isle of Man Health Services Board;
- (e) a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990⁽¹⁾ or the National Health Service (Scotland) Act 1978⁽²⁾;
- (f) a Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991⁽³⁾; or
- (g) any person not falling within any of paragraphs (a) to (f) above who is engaged in the carrying on of any activity in respect of which a relevant institution is required to be approved, licensed or registered or as the case may be, would be so required if not exempt.

(5I) In Notes (5A), (5B) and (5H), “relevant institution” means any institution (whether a hospital, nursing home or other institution) which provides care or medical or surgical treatment and is either—

- (a) approved, licensed or registered in accordance with the provisions of any enactment or Northern Ireland legislation; or
- (b) exempted by or under the provisions of any enactment or Northern Ireland legislation from any requirement to be approved, licensed or registered;

and in this Note the references to the provisions of any enactment or Northern Ireland legislation include references only to provisions which, so far as relating to England, Wales, Scotland or Northern Ireland, have the same effect in every locality within that part of the United Kingdom.”.

(1) 1990 c. 19.
(2) 1978 c. 29.
(3) S.I.1991/194 (N.I.1).