

Statutory Document No.2021/0239



Value Added Tax Act 1996

VALUE ADDED TAX ACT 1996 (AMENDMENT) ORDER 2021

*Approved by Tynwald:
Coming into Operation in accordance with article 2*

The Treasury makes the following Order under section 96 of the Value Added Tax Act 1996.

1 Title

This Order is the Value Added Tax Act 1996 (Amendment) Order 2021.

2 Commencement

- (1) This Order comes into operation on the day after it is made¹.
- (2) However, when it comes into operation, it shall be deemed to have taken effect on IP completion day, with the exception of article 3(2) and (4) and the Schedule to this Order, which shall be deemed to have taken effect on 1 July 2021².

3 Amendment of the Value Added Tax Act 1996

- (1) The Value Added Tax Act 1996 is amended as follows.
- (2) After section 58D (payment by cheque)³, insert —

¹ Section 95(3) of the Value Added Tax Act 1996 provides that an order made under section 96 must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid fails to approve the order, the order shall thereupon cease to have effect.

² Section 95(6) of the Value Added Tax Act 1996 provides that an order made by the Treasury under this Act may, in so far as the Treasury considers it necessary that such order shall conform with any resolution, rule, regulation or order made under the U.K. Act, or any other Act of Parliament relating to VAT in force at the time of the making of the first mentioned order, be made retrospective and shall take effect on such day or days as may be specified in the order and different days may be appointed for different purposes and different provisions of the order.

³ Section 58D was inserted by SD 616/07.

58E Deferring VAT payment by reason of the coronavirus emergency

- (1) Schedule 15A makes provision about –
 - (a) powers of the Treasury to agree that payment of sums to meet certain liabilities relating to the coronavirus emergency may be further deferred;
 - (b) surcharges arising on such sums; and
 - (c) a penalty payable in connection with non-payment of such sums.
 - (2) The Treasury may by regulations repeal paragraphs 4 to 11 of Schedule 15A (penalty) where it considers it appropriate to do so by reason of circumstances arising as a result of the coronavirus emergency.
 - (3) Regulations made under subsection (2) –
 - (a) must make provision for the repayment of amounts paid in respect of penalties under Schedule 15A; and
 - (b) may make other transitional provision.
 - (4) In this section “coronavirus” has the meaning given in regulation 5 of the Public Health Protection (Coronavirus) Regulations 2020⁴.
- (3) In Schedule 7 (valuation - special cases), after paragraph 11, insert –

11A

- (1) Subparagraph (2) applies to goods that –
 - (a) fall within section 21(5) (works of art etc.); and
 - (b) are treated as supplied in the Island as a result of section 7(5B)⁵ (importation of consignments with an intrinsic value not exceeding £135).
 - (2) The value of the supply of goods to which this subparagraph applies is to be taken to be an amount equal to 25% of the amount that, apart from this subparagraph, would be its value for the purposes of this Act.
 - (3) An order under section 98 may contain provision making such alteration of the percentage for the time being specified in subparagraph (2) as the Treasury considers appropriate in consequence of any increase or decrease by that order of the rate of VAT.
- (4) After Schedule 15 (amendments), insert as Schedule 15A the Schedule contained in the Schedule to this Order.

⁴ SD 2020/0551, as amended.

⁵ Section 7(5B) was inserted by SD 2021/0150.

MADE 9 JULY 2021

A L CANNAN
Minister for the Treasury

SCHEDULE

Article 3(4)

SCHEDULE 15A

Section 58E

**DEFERRING VAT PAYMENT BY REASON OF THE CORONAVIRUS
EMERGENCY****1 Definitions**

In this Schedule “relevant VAT sum” means a sum to meet all or part of a liability that —

- (a) consists of an amount payable under section 73 (failure to make returns etc) where the assessment -
 - (i) is in respect of a prescribed accounting period where the return to which the prescribed accounting period relates was required by regulation 25 (making of returns) of the Value Added Tax Regulations 1996⁶ to be made in the period beginning on 20 March 2020 and ending on 30 June 2020; and
 - (ii) is made on or before 31 March 2021; or
- (b) consists of an amount payable during the period beginning on 20 March 2020 and ending on 30 June 2020 under -
 - (i) article 4 (payments on account) of the Value Added Tax (Payments on Account) (No. 2) Order 1993⁷;
 - (ii) regulation 40(2) or (3) (VAT to be accounted for on returns and payment of VAT) of the Value Added Tax Regulations 1996; or
 - (iii) regulation 50(2) (annual accounting scheme) of the Value Added Tax Regulations 1996.

2 Power to agree to further defer payment

- (1) The Treasury (having agreed that payment of relevant VAT sums may be deferred until 31 March 2021) may —
 - (a) agree that payment of a relevant VAT sum may be further deferred; and
 - (b) make such arrangements as it considers appropriate for persons to pay relevant VAT sums.

⁶ SD 194/96, as amended.

⁷ SD 455/93, as amended.

- (2) The period for which payment is further deferred under subparagraph (1) may be different for different cases.
- (3) Arrangements made under subparagraph (1) may, among other things —
 - (a) require that, in order to participate in the arrangements, a person must meet specified conditions;
 - (b) require or enable a sum to be paid in instalments, including instalments of different amounts; and
 - (c) make different provision for different cases.
- (4) Nothing in subparagraphs (1) to (3) affects the powers otherwise available to the Treasury in connection with the collection and management of relevant VAT sums or other sums.

3 No surcharge

- (1) No liability to a surcharge on a relevant VAT sum arises under section 59 (the default surcharge).

4 Penalty

- (1) A person who is liable to pay a relevant VAT sum is liable to a penalty if the person —
 - (a) fails to pay the sum on or before 30 June 2021; and
 - (b) fails to enter into payment arrangements in respect of the sum on or before that day.
- (2) In subparagraph (1), “payment arrangements” means arrangements with the Treasury (whether general or individually tailored) under which the sum is to be paid and includes arrangements entered into before this Schedule comes into operation.
- (3) A person is not liable to a penalty under this Schedule in respect of a relevant VAT sum if the person satisfied the Treasury or, on appeal, a tribunal that there is a reasonable excuse for the failures described in subparagraph (1)(a) and (b).
- (4) In subparagraph (3), “tribunal” has the same meaning as section 82 (appeal tribunal).

5 Amount of penalty

The amount of the penalty under this Schedule is 5% of so much of the relevant VAT sum as has not been paid immediately before the day on which the amount due by way of penalty is assessed under paragraph 6(1).

6 Assessment of penalty

- (1) Where a person is liable to a penalty under this Schedule, the Treasury may assess the amount due by way of penalty and notify it to the person (subject to subparagraph (4)).
- (2) If it appears to the Treasury that the amount that ought to have been assessed in an assessment under subparagraph (1) exceeds the amount that was assessed, the Treasury may make a supplementary assessment of the amount of the excess and notify it to the person (subject to subparagraph (4)).
- (3) If it appears to the Treasury that the amount that was assessed in an assessment under subparagraph (1) exceeds the amount that ought to have been assessed, the Treasury may, by notice to the person, amend the assessment so as to reduce the amount due.
- (4) An assessment under subparagraph (1) or (2) may not be made after the end of the period of 2 years beginning with the time when facts sufficient in the opinion of the Treasury to indicate that the person had failed as described in paragraph 4(1)(a) and (b) came to the Treasury's knowledge.
- (5) An amendment under subparagraph (3) may be made after the last day on which the assessment in question could have been made.

7 Payment of penalty

- (1) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the assessment of the penalty under paragraph (1) is issued.
- (2) Where the Treasury makes a supplementary assessment under paragraph 6(2), the additional amount must be paid before the end of the period of 30 days beginning with the day on which it issues the notification of that assessment.
- (3) Where the Treasury amends an assessment under paragraph 6(3) that does not affect when the penalty must be paid.

8 Recovery of penalty

If an amount is assessed and notified to a person under this Schedule then unless, or except to the extent that, the assessment is withdrawn or reduced, the amount is recoverable as if it were VAT due from the person.

9 Reviews and appeals

- (1) Part V (reviews and appeals) has effect in relation to —
 - (a) any liability to a penalty under this Schedule; and
 - (b) the amount of a penalty under this Schedule,

as if those matters were listed in section 83(1) (appeals).

- (2) Section 84(3), (3B) and (3C) (requirement to deposit sum payable with the Treasury) have effect in relation to appeals against decisions with respect to those matters.

10 Double jeopardy

A person is not liable to a penalty under this Schedule in respect of a failure in respect of which the person has been convicted of an offence.

11 Notifications etc.

- (1) Section 99 (service of notices) applies to notices and notifications to be given under this Schedule.
- (2) For the purposes of this Schedule, a notice or notification given to a personal representative, trustee in bankruptcy, receiver, liquidator or other representative of a person is to be treated as having been given to that person. .

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

This Order amends the Value Added Tax Act 1996 (“the Act”) in order to ensure that the Act corresponds with the like legislation in the United Kingdom, as required under the Customs and Excise Agreement 1979.

Article 3 inserts a new section 58E, and Schedule 15A, into the Act to make provisions to deal with VAT payments which remain outstanding following the coronavirus emergency. VAT registered traders were permitted to defer their VAT payments for the period 20 March 2020 to 30 June 2020 as part of the Government’s support measures for businesses during the pandemic. Those payments needed to have been made, or formal arrangements needed to have been put in place with the Treasury to pay the amount over a longer period, by 30 June 2021. If a person has not made the required payment, or arranged a formal agreement with the Treasury, they may be liable to a penalty. The penalty is 5% of the amount of VAT which remains outstanding at the time a penalty is assessed.

Article 3 also amends Schedule 7 to the Act to ensure that the correct amount of VAT is charged on works of art, antiques etc. when they are imported in a consignment of £135 or less.