



VALUE ADDED TAX

VALUE ADDED TAX (CARS) ORDER 1993

Laid before Tynwald 16th March, 1993

Coming into operation 1st January 1993

In exercise of the powers conferred on the Treasury by sections 6(3) and (5), 14(1), (2), (3), (4), (5) and (6) and 21(2) of the Value Added Tax and Other Taxes Act 1973(a) and of all other powers enabling it in that behalf, the following Order is hereby made: -

Citation and commencement

1. This Order may be cited as the Value Added Tax (Cars) Order 1993 and shall be deemed to have come into operation on 1st January 1993.

Interpretation

2. In this Order-

"the Act" means the Value Added Tax Act 1973;

"car dealer" means a taxable person who carries on a business which consists of or includes the sale of motor cars;

"finance agreement" means an agreement for the sale of goods whereby the property in those goods is not to be transferred until the whole of the price has been paid and the seller retains the right to repossess the goods;

"insurer" means a person permitted, in accordance with section 6 of the Insurance Act 1986(b) to effect and carry out contracts of insurance against risks of loss or damage to goods;

"motor car" means any motor vehicle of a kind normally used on public roads which has three or more wheels and either-

- (a) is constructed or adapted solely or mainly for the carriage of passengers; or

- (b) has to the rear of driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows;

but does not include-

- (i) vehicles capable of accommodating only one person or suitable for carrying twelve or more persons;
- (ii) vehicles of not less than three tonnes unladen weight;
- (iii) caravans, ambulances and prison vans;
- (iv) vehicles of a type approved by the Assistant Commissioner of Police of the Metropolis conforming to the conditions of fitness for the time being laid down by him for the purposes of the London Cab Order 1934(a) (an Order made by the Secretary of State under Acts of Parliament); or
- (v) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.

Revocations

3. The public documents mentioned in the Schedule are hereby revoked to the extent specified in the third column of that Schedule.

Treatment of transactions

4. (1) Each of the following descriptions of transactions shall be treated as neither a supply of goods nor a supply of services-

- (a) the disposal of a used motor car by a person who repossessed it under the terms of a finance agreement, where the motor car is in the same condition as it was in when it was repossessed;
- (b) the disposal of a used motor car by an insurer who has taken it in the settlement of a claim under a policy of insurance, where the motor car is disposed of in the same condition as it was in when it was so taken;
- (c) the disposal of a motor car for no consideration where, on a previous supply of the motor car or on its acquisition from a member State or on its importation from a place outside the member States, tax charged thereon had been excluded from any credit by virtue of an order made under section 3 (9) of the Act.

(2) Nothing in paragraph (1)(a) or (b) shall be construed as meaning that a transaction is not a supply for the purposes of section 8BA(1)(a) of the Act.

Self-supplies

5. (1) This article applies to the following motor cars produced or obtained by a taxable person in the course or furtherance of any business carried on by him, that is to say-

- (a) any motor car produced by him otherwise than by the conversion of a vehicle obtained by him;
- (b) any motor car produced by him by the conversion of another vehicle (whether a motor car or not) and in respect of which the conditions specified in paragraph (2) are satisfied;
- (c) any motor car obtained by him and in respect of which the conditions specified in paragraph (2) are satisfied.

(2) The conditions mentioned in paragraph (1) are-

- (a) that the motor car or other vehicle was supplied to the taxable person or was acquired by him from a member State or was imported by him from a place outside the member States; and
- (b) tax was chargeable on that supply, acquisition or importation; and
- (c) the taxable person is entitled to credit for that tax under section 3 and 4 of the Act.

(3) Save in the case of a motor car to which article 6 applies, where a motor car to which this article applies-

- (a) is neither supplied by the taxable person in the course of furtherance of any business carried on by him, nor converted into another vehicle (whether a motor car or not) in the course or furtherance of that business; but
- (b) is used by him for the purpose of that business,

the motor car shall be treated for the purposes of the Act as both supplied to him for the purposes of that business and supplied by him in the course or furtherance of that business, except where the Treasury is satisfied that the motor car is, or is to be, used solely for the purpose of research and development in his business as a producer of motor cars (other than as a producer of motor cars solely by the conversion of vehicles).

6. (1) Where a motor car is supplied to a taxable person or is acquired by a taxable person from a member State or is imported by a taxable person from a place outside the member States, primarily for the purpose of-

- (a) being provided by him for hire with the services of a driver for the purpose of carrying passengers; or
- (b) being provided by him for self-drive hire; or

- (c) being used as a vehicle in which instruction in the driving of a motor car is to be given by him; or
- (d) the letting on hire to a person who is not a taxable person on condition that he uses the motor car primarily for one of the purposes described in sub-paragraphs (a) to (c),

and it is neither supplied by the taxable person in the course or furtherance of any business carried on by him, nor converted into another vehicle (whether a motor car or not), in the course or furtherance of that business, but it is used by him for the purpose of any business carried on by him primarily for a purpose other than one of the purposes described in sub-paragraphs (a) to (d), then the motor car shall be treated for the purposes of the Act as both supplied to him for the purposes of that business and supplied by him in the course or furtherance of that business.

(2) In this article "self-drive hire" means hire where the hirer is the person normally expected to drive the motor car and the period of hire to each hirer, together with the period of hire of any other motor car expected to be hired to him by the taxable person-

- (a) will normally be less than 30 consecutive days; and
- (b) will normally be less than 90 days in any period of 12 months.

7. Articles 5 and 6 shall apply in relation to any bodies corporate which are treated for the purposes of section 21 of the Act as members of a group as if those bodies were one person, but any motor car which would fall to be treated as supplied to and by that person shall be treated as supplied to and by the representative member.

Relief for second-hand motor cars

8. (1) Subject to paragraph (2)-

- (a) on the supply by any person of a used motor car, tax shall be chargeable as if the supply were for a consideration equal to the excess of-
 - (i) the consideration for which the motor car is supplied by him, over
 - (ii) the consideration for which the motor car was obtained by him.

and accordingly shall not be charged unless there is such an excess;

- (b) on the supply by a person of a used motor car which was acquired by him from a member State, or imported by him from a place outside the member States, the consideration for which the motor car was obtained by him shall be taken to be the value of its acquisition or, as the case may require, its value for the purposes of charging tax on importation, together with any tax chargeable in respect of the acquisition, or, as the case may be, the importation of the motor car;
- (c) on the supply by a person of a used car previously

treated under article 5 as supplied by him, paragraph (a) shall apply as if for the consideration referred to in sub-paragraph (ii) there were substituted the amount by reference to which tax was chargeable on the previous supply plus the tax so chargeable.

(2) This article does not apply to-

- (a) a supply which is a letting on hire;
- (b) the supply by any person of a motor car which was produced by him, if it was neither previously supplied by him in the course or furtherance of any business carried on by him nor treated as so supplied by virtue of article 5;
- (c) any supply if an invoice or similar document showing an amount as being tax or as being attributable to tax is issued in respect of the supply;
- (d) a supply by a car dealer unless he keeps such records and accounts as the Treasury may specify in a notice published by it for the purposes of this Order or may recognise as sufficient for those purposes;
- (e) save where it has previously been treated as supplied by him by virtue of article 6, the supply by a taxable person of a motor car where its supply to him, or its acquisition by him from a member State, or its importation by him from a place outside the member States, was primarily for any of the following purposes-
 - (i) being provided by him for hire with the services of a driver for the purpose of carrying passengers;
 - (ii) being provided by him for self-drive hire;
 - (iii) being used as a vehicle in which instruction in the driving of a motor car is to be given by him; or
 - (iv) the letting on hire to a person who is not a taxable person on condition that he uses the motor car primarily for one of the purposes described in paragraphs (i) to (iii).

(3) For the purposes of paragraph (2)(e) "self-drive hire" means hire where the hirer is the person normally expected to drive the motor car and the period of hire to each hirer, together with the period of hire of any other motor car expected to be hired to him by the taxable person-

- (a) will normally be less than 30 consecutive days; and
- (b) will normally be less than 90 days in any period of 12 months.

(4) Where a car dealer has failed to keep all such records and accounts as the Treasury has specified, and the Treasury does

not recognise other records and accounts kept as sufficient, tax shall be chargeable as provided in paragraph (5) if the following conditions are satisfied-

- (a) such records as the Treasury has specified are available in relation to the purchase of the motor car or in relation to the supply of the motor car by him;
- (b) the Treasury is of the opinion that the mark-up achieved by him does not exceed 100 per cent; and
- (c) the supply is otherwise eligible for the relief afforded by this article.

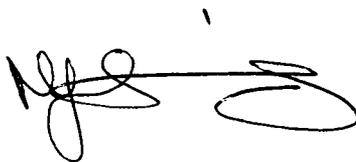
(5) The tax chargeable in the circumstances referred to in paragraph (4) shall be either-

- (a) where only the specified records in relation to the purchase of the motor car are available, as if the supply by the car dealer were for a consideration equal to the consideration for which the motor car was purchased by him; or
- (b) where only the specified records in relation to the supply by him are available, as if the supply by the car dealer were for a consideration equal to half the consideration for which the motor car was supplied by him.

PUBLIC DOCUMENTS REVOKED

G. C. No.	Title	Extent of revocation
124/80.	Value Added Tax (Cars) Order 1980.	The whole Order.
59/84.	Value Added Tax (Cars) (Amendment) Order 1984.	The whole Order.
300/89.	Value Added Tax (Cars) (Amendment) Order 1989.	The whole Order.
215/90.	Value Added Tax (Cars) (Amendment) Order 1990.	The whole Order.
113/92.	Value Added Tax (Cars) (Amendment) Order 1992.	The whole Order.

Made this 25th day of February 1993



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

From 1st January 1993 goods removed to the Island from the European Communities will no longer be chargeable to tax on importation. However, such goods may become chargeable to tax on their acquisition in the Island. Goods imported into the Island from a place outside the European Community will continue to be chargeable to tax on their importation.

This Order revokes and re-enacts, with amendments, the provisions specified in the Schedule. The amendments are made in consequence of the new charging event arising from an acquisition of goods from a member State.

Article 4 re-enacts, with amendments, article 6 of the Valued Added Tax (Cars) Order 1980 (the 1980 Order), by excluding from the scope of the tax, disposals by finance houses and insurers of used motor cars in specified circumstances, and disposals without consideration of any motor car (including one acquired from a member State) in relation to which deduction of input tax has been disallowed.

Articles 5 and 6 re-enact, with amendments, article 4(1) to (3) and article 4(3A) respectively of the 1980 Order. They each provide for circumstances where a person is to be treated as supplying a motor car (which might be one acquired from another member State) both to himself and by himself.

Article 7 re-enacts article 4(4) of the 1980 Order by applying articles 5 and 6 to bodies corporate which are treated as members of a group.

Article 8 re-enacts, with amendments, article 5 of the 1980 Order. It provides for the tax chargeable on the supply of a used motor car (including one acquired from another member State) to be, subject to specified conditions, chargeable by reference to the excess (if any) of the consideration for which the car is supplied over the cost of its purchase plus (in the case of a car acquired from another member State or imported from a place outside the member States) the tax chargeable on its acquisition or importation.