



VALUE ADDED TAX ACT 1996

VALUE ADDED TAX (CHARITIES AND AIDS FOR THE HANDICAPPED) ORDER 2000

Approved by Tynwald

16 May 2000

Coming into operation

1 April 2000

In exercise of the powers conferred on the Treasury by sections 30(4) and 94(6) of the Value Added Tax Act 1996^(a), and of all other powers enabling it in that behalf, the following Order is hereby made:-

Citation, commencement and interpretation

1. (1) This Order may be cited as the Value Added Tax (Charities and Aids for the Handicapped) Order 2000 and shall come into operation on 1 April 2000 and shall have effect in relation to supplies made on or after that date.

(2) In this Order, "the Act" means the Value Added Tax Act 1996.

Amendment

2. Group 12 (drugs, medicines, aids for the handicapped, etc.) of Schedule 9 to the Act shall be varied in accordance with articles 3 and 4.

3. For item 11 substitute -

"11. The supply to a charity of a service providing, extending or adapting a bathroom, washroom or lavatory for use by handicapped persons -

(a) in residential accommodation, or

(b) in a day-centre where at least 20 per cent. of the individuals using the centre are handicapped persons,

where such provision, extension or adaptation is necessary by reason of the condition of the handicapped persons."

4. After Note (4I) insert -

^(a) 1996 c.1.

“(4J) For the purposes of item 11 “residential accommodation” means -

- (a) a residential home, or
- (b) self-contained living accommodation,

provided as a residence (whether on a permanent or temporary basis or both) for handicapped persons, but does not include an inn, hotel, boarding house or similar establishment or accommodation in any such type of establishment.

(4K) In this Group “washroom” means a room that contains a lavatory or washbasin (or both) but does not contain a bath or a shower or cooking, sleeping or laundry facilities.”.

5. Group 15 (charities etc) of Schedule 9 to the Act shall be varied in accordance with articles 6 to 9.

6. For items 1 and 2 substitute -

“1. The sale, or letting on hire, by a charity of any goods donated to it for -

- (a) sale,
- (b) letting,
- (c) sale or letting,
- (d) sale or export,
- (e) letting or export, or
- (f) sale, letting or export.

1A. The sale, or letting on hire, by a taxable person of any goods donated to him for -

- (a) sale,
- (b) letting,
- (c) sale or letting,
- (d) sale or export,
- (e) letting or export, or
- (f) sale, letting or export,

if he is a profits-to-charity person in respect of the goods.

2. The donation of any goods for any one or more of the following purposes -

- (a) sale by a charity or a taxable person who is a profits-to-charity person

in respect of the goods;

- (b) export by a charity or such a taxable person;
- (c) letting by a charity or such a taxable person.”.

7. For item 8 substitute -

“8. The supply to a charity of a right to promulgate an advertisement by means of a medium of communication with the public.

8A. A supply to a charity that consists in the promulgation of an advertisement by means of such a medium.

8B. The supply to a charity of services of design or production of an advertisement that is, or was intended to be, promulgated by means of such a medium.

8C. The supply to a charity of goods closely related to a supply within item 8B.”.

8. For Note (1) substitute -

“(1) Item 1 or 1A does not apply unless the sale or letting -

(a) takes place as a result of the goods having been made available -

- (i) to two or more specified persons, or
- (ii) to the general public,

for purchase or hire (whether so made available in a shop or elsewhere),
and

(b) does not take place as a result of any arrangements (whether legally binding or not) relating to the goods and entered into, before the goods were made so available, by -

- (i) each of the parties to the sale or letting, or
- (ii) the donor of the goods and either or both of those parties.

(1A) For the purposes of items 1, 1A and 2, goods are donated for letting only if they are donated for -

- (a) letting, and
- (b) re-letting after the end of any first or subsequent letting, and
- (c) all or any of -
 - (i) sale,
 - (ii) export, or

(iii) disposal as waste,

if not, or when no longer, used for letting.

(1B) Items 1 and 1A do not include (and shall be treated as having not included) any sale, or letting on hire, of particular donated goods if the goods, at any time after they are donated but before they are sold, exported or disposed of as waste, are whilst unlet used for any purpose other than, or in addition to, that of being available for purchase, hire or export.

(1C) In Note (1) "specified person" means a person who -

- (a) is handicapped, or
- (b) is entitled to any one or more of the specified benefits, or
- (c) is both handicapped and so entitled.

(1D) For the purposes of Note (1C) the specified benefits are -

- (a) supplementary benefit or income support under Part VII of the Social Security Contributions and Benefits Act 1992 (of Parliament), as that Act has effect in the Island^(b);
- (b) an income-based jobseeker's allowance within the meaning of section 1(4) of the Jobseekers Act 1995 (of Parliament), as that Act has effect in the Island^(c);
- (c) a family income supplement under Part VII of the Social Security Contributions and Benefits Act 1992 (of Parliament), as that Act has effect in the Island;
- (d) disability working allowance under Part VII of the Social Security Contributions and Benefits Act 1992 (of Parliament), as that Act has effect in the Island.

(1E) For the purposes of items 1A and 2 a taxable person is a "profits-to-charity" person in respect of any goods if -

- (a) he has agreed in writing (whether or not contained in a deed) to transfer to a charity his profits from supplies and lettings of the goods, or
- (b) his profits from supplies and lettings of the goods are otherwise payable to a charity.

(1F) In items 1, 1A and 2, and any Notes relating to any of those items, "goods" means goods (and, in particular, does not include anything that is not goods even though

^(b) 1992 c.4 of Parliament, as applied in the Island by S.D. No. 505/94.

^(c) 1995 c.18 of Parliament, as applied in the Island by S.D. No. 8/96.

provision made by or under an enactment provides for a supply of that thing to be, or be treated as, a supply of goods).”.

9. After Note (10) insert -

“(10A) Neither of items 8 and 8A includes a supply where any of the members of the public (whether individuals or other persons) who are reached through the medium are selected by or on behalf of the charity.

For this purpose “selected” includes selected by address (whether postal address or telephone number, e-mail address or other address for electronic communications purposes) or at random.

(10B) None of items 8 to 8C includes a supply used to create, or contribute to, a website that is the charity’s own.

For this purpose a website is a charity’s own even though hosted by another person.

(10C) Neither of items 8B and 8C includes a supply to a charity that is used directly by the charity to design or produce an advertisement.”.

Made this

5th day of April.

2000



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force with effect from 1st April 2000, amends Groups 12 and 15 of Schedule 9 to the Value Added Tax Act 1996 (“the Act”).

Article 3 substitutes item 11 of Group 12 of Schedule 9 of the Act. Item 11 replaces the former item 11 so zero-rating applies to the supply to a charity of services of providing, extending or adapting bathrooms, washrooms and lavatories in residential accommodation or day-centres where this work is done to suit the conditions of handicapped people.

Article 4 of the Order inserts Notes (4J) and (4K) into Group 12. Note (4J) defines “residential accommodation” while Note (4K) defines a “washroom” for the purpose of Group 12.

Article 6 replaces item 1 of Group 15 of the Schedule, zero-rating sale or hire of donated goods by a charity when the goods have been donated either for sale, hire or any combination of these two and export.

Article 6 also inserts a new item 1A of Group 15 of the Schedule to zero-rate the same supplies as in the new item 1 when they are made by a taxable person which is a “profits-to-charity person”.

Article 6 also replaces item 2 of Group 15 of the Schedule, zero-rating a donation to a charity or a "profits-to-charity person" of any goods for sale, hire or export.

Article 7 replaces item 8 of Group 15 of the Schedule with items 8, 8A, 8B and 8C.

Items 8 and 8A remove the restriction on both the media in which a qualifying advertisement may be placed and on the "purpose" of a relieved advertisement and instead give zero-rating to all supplies to charities of making known their advertisement to the public, whether through publication, TV advertising slot or any other means.

Items 8B and 8C give zero-rating to design and production services, as well as closely related supplies of goods, of an advertisement whose promulgation was relieved through items 8 or 8A.

Article 8 replaces Note (1) to Group 15 of the Schedule to the effect that zero-rating only applies to sale or hire of donated goods by a charity or a "profits-to-charity person", if the supply takes place as a result of the goods having been made available to one or more "specified persons" or to the general public, and the parties made no arrangements of any kind relating to the donated goods before the supply took place.

Article 8 also inserts new Notes (1A) to (1F) to Group 15 of the Schedule.

Note (1A) stipulates that goods are donated for hire only if they are hired continually and then sold, exported or thrown away when no longer hired.

Note (1B) stipulates that items 1 and 1A do not include sale or hire of goods that have been used by the charity or "profits-to-charity" person in any way other than hire or being available for sale, hire or export.

Note (1C) defines "specified persons" in note (1) as people who are either handicapped, in receipt of one or more means-tested benefits or both. ("Handicapped" is already defined in Note (5) as "chronically sick or disabled").

Note (1D) lists the means-tested benefits currently available in the Island.

Note (1E) defines a "profits-to-charity" person for the purposes of items 1A and 2 as a person who is obliged by a written agreement or by another reason to transfer to charity the profits of their sales or hiring of donated goods.

Note (1F) excludes land (and other things deemed to be goods for the purposes of the VAT law) from zero-rating under items 1, 1A and 2.

Article 9 inserts new Notes 10A to 10C, into Group 15, setting out supplies which do not qualify for relief under items 8, 8A, 8B or 8C.

Note 10A excludes from items 8 and 8A supplies used to contact selected individuals or groups.

Note 10B excludes from items 8, 8A, 8B and 8C supplies relating to a charity's own website.

Note 10C excludes from items 8B and 8C supplies to a charity, used by the charity itself to design or produce an advertisement.