



VALUE ADDED TAX ACT 1996

VALUE ADDED TAX (BUILDINGS AND LAND) ORDER 2004

Approved by Tynwald

20 April 2004

Coming into operation

20 March 2004

In exercise of the powers conferred on the Treasury by section 51(2) 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 and commencement

1. This Order may be cited as the Value Added Tax (Buildings and Land) Order 2004 and shall come into operation on 20th March 2004 in respect of supplies made on or after that date.

Amendment

2. Schedule 11 to the Value Added Tax Act 1996 shall be amended in accordance with the following articles.

3. In paragraph 2(3A)(b) for “sub-paragraph (3AA)” substitute “sub-paragraph (3AA) or (3B)”.

4. In paragraph 2, before sub-paragraph (5) insert –

“(4) Where a supply is made by a person other than the person who made the grant giving rise to it, then for the purposes of sub-paragraph (3A) –

(a) the person making the supply shall be treated as the person who made the grant that gave rise to that supply; and

(b) the grant shall be treated as made at the time when that person made his first supply arising from the grant.”.

5. (1) Paragraph 3A is amended as follows.

(2) For “and (3AA)”, wherever occurring, substitute “, (3AA) and (4)”.

(3) After sub-paragraph (2) insert –

“(2A) For the purposes of paragraph 2(3A) where –

^(a) 1996 c.1.

- (a) by virtue of paragraph 2(4), a person is treated as making the grant of the land giving rise to a supply made by him; and
- (b) the grant is not a grant made by a developer of that land within sub-paragraph (2) only because it is treated as made at a time falling after the expiry of the period for adjustments of input tax by virtue of regulations made under section 26(3) and (4),

the grant shall be treated as having been made by a developer of the land to which the grant relates.”.

(4) In sub-paragraph (5), omit the word “or” at the end of paragraph (c) and after that paragraph insert –

“(cc) the provision of any consideration for the acquisition by any person of any shares or other securities described in paragraph (c); or”.

Made this

18th

day of

March

2004



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into operation on 19 March 2004, amends Schedule 11 to the Value Added Tax Act 1996 (“the Act”). It prevents deferral or absolute savings of VAT in relation to land or buildings (“property”) occupied by persons who make both taxable and exempt supplies or only exempt supplies or otherwise use property for non-business purposes.

Paragraph 2(1) of Schedule 11 to the Act allows taxpayers to elect to charge VAT on supplies of property that would otherwise be exempt from VAT. Electing to waive exemption allows taxpayers to recover input tax that is attributable to supplies that become taxable as a result.

An election to waive exemption has no effect in relation to certain supplies of property described in the Act. Paragraph 2(3A) of Schedule 11 to the Act describes some of those supplies. The supplies to which that paragraph applies, relate to property that, in the hands of the person making the supply, is a capital item for the purposes of regulations made under section 26(3) and (4) of the Act (the regulations are regulations 112-116 of the Value Added Tax Regulations 1996). It will cause a supply to fall for VAT exemption, notwithstanding an election to waive exemption, if the supply arises from a grant made by that person and he (or the person who financed his development of that property) intended or expected that it will be occupied other than wholly or mainly for making taxable supplies.

Article 1 provides for the commencement of this Order and that it has effect in relation to supplies made on or after 20 March 2004.

Article 3 makes a consequential amendment to paragraph 2(3A) of Schedule 11 to the Act arising from the insertion of paragraph 2(4) by article 4 of this Order.

Article 4 inserts new paragraph 2(4) of Schedule 11 to the Act. Paragraph 2(4) provides that when someone other than the person who made the grant, makes a supply of land that arises from that grant then (for the purposes of paragraph 2(3A)) that person is treated as making that grant at the time of their first supply arising from it.

Article 5(2) makes consequential amendments to paragraph 3A of Schedule 11 to the Act arising from the insertion of paragraph 2(4).

Article 5(3) inserts paragraph 3A(2A) of Schedule 11 to the Act. It applies so that a grant that is treated as made by virtue of paragraph 2(4), and which fails to be grant made by a developer of land by virtue of paragraph 3A(2) only because it occurs after the time for making adjustments to input tax required by regulations made under section 26(3) and (4) of the Act will, nevertheless, be treated as a grant made by a developer of land.

Article 5(4) inserts a new paragraph (cc) to the non-exhaustive list of activities in paragraph 3A(5) of Schedule 11 to the Act. These activities constitute the provision of funds for the development of land. The provision of any consideration for the acquisition of shares or securities that finance a development of land is now expressly stipulated to be such an activity.

