



## VALUE ADDED TAX ACT 1996

### VALUE ADDED TAX (ELECTRONIC COMMUNICATIONS) ORDER 2007

*Approved by Tynwald*

*17<sup>th</sup> April 2007*

*Coming into operation*

*1<sup>st</sup> May 2007*

In exercise of the powers conferred on the Treasury by section 96 of the Value Added Tax Act 1996<sup>(a)</sup>, 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 (Electronic Communications) Order 2007 and, subject to section 95(3) of the Value Added Tax Act 1996, shall come into operation on 1<sup>st</sup> May 2007.

#### **Amendment of the Value Added Tax Act 1996**

2. The Value Added Tax Act 1996 shall be amended as follows.
3. Immediately following section 58A insert –

#### **"Power to provide for use of electronic communications**

58B. (1) Regulations may be made, in accordance with this section, for facilitating the use of electronic communications for –

- (a) the delivery of information the delivery of which is authorised or required by or under any legislation relating to value added tax;
- (b) the making of payments under any such legislation.

(2) For the purposes of this section provision for facilitating the use of electronic communications includes any of the following –

- (a) provision authorising persons to use electronic communications for the delivery of information to the Treasury, or for the making of payments to the Treasury;
- (b) provision requiring electronic communications to be used for the making to the Treasury of payments due from persons using such communications for the delivery of information to the Treasury;

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<sup>(a)</sup> 1996 c.1.

- (c) provision authorising the Treasury to use electronic communications for the delivery of information to other persons or for the making of any payments;
- (d) provision as to the electronic form to be taken by any information that is delivered to the Treasury using electronic communications;
- (e) provision requiring persons to prepare and keep records of information delivered to the Treasury by means of electronic communications, and of payments made to the Treasury by any such means;
- (f) provision for the production of the contents of records kept in accordance with any regulations under this section;
- (g) provision imposing conditions that must be complied with in connection with any use of electronic communications for the delivery of information or the making of any payment;
- (h) provision, in relation to cases where use is made of electronic communications, for treating information as not having been delivered, or a payment as not having been made, unless conditions imposed by any such regulations are satisfied;
- (i) provision, in relation to such cases, for determining the time when information is delivered or a payment is made;
- (j) provision, in relation to such cases, for determining the person by whom information is to be taken to have been delivered or by whom a payment is to be taken to have been made;
- (k) provision, in relation to cases where information is delivered by means of electronic communications, for authenticating whatever is delivered.

(3) The power to make provision under this section for facilitating the use of electronic communications shall also include power to make such provision as the Treasury thinks fit (including provision for the application of conclusive or other presumptions) as to the manner of proving for any purpose –

- (a) whether any use of electronic communications is to be taken as having resulted in the delivery of information or the making of a payment;
- (b) the time of delivery of any information for the delivery of which electronic communications have been used;
- (c) the time of the making of any payment for the making of which electronic communications have been used;
- (d) the person by whom information delivered by means of electronic communications was delivered;
- (e) the contents of anything so delivered;
- (f) the contents of any records;

- (g) any other matter for which provision may be made by regulations under this section.
- (4) Regulations under this section may –
- (a) allow any authorisation or requirement for which such regulations may provide to be given or imposed by means of a specific or general direction given by the Treasury;
  - (b) provide that the conditions of any such authorisation or requirement are to be taken to be satisfied only where the Treasury is satisfied as to specified matters;
  - (c) allow a person to refuse to accept delivery of information in an electronic form or by means of electronic communications except in such circumstances as may be specified in or determined under the regulations;
  - (d) allow or require use to be made of intermediaries in connection with –
    - (i) the delivery of information, or the making of payments, by means of electronic communications; or
    - (ii) the authentication or security of anything transmitted by any such means.
- (5) Power to make provision by regulations under this section shall include power –
- (a) to provide for a contravention of, or any failure to comply with, a specified provision of any such regulations to attract a penalty of a specified amount not exceeding £1,000;
  - (b) to provide that specified enactments relating to penalties imposed for the purposes of matters relating to value added tax (including enactments relating to assessments, review and appeal) are to apply, with or without modifications, in relation to penalties under such regulations;
  - (c) to make different provision for different cases;
  - (d) to make such incidental, supplemental, consequential and transitional provision in connection with any provision contained in any such regulations as the persons exercising the power think fit.
- (6) References in this section to the delivery of information include references to any of the following (however referred to) –
- (a) the production or furnishing to a person of any information, account, record or document;
  - (b) the giving, making, issue or surrender to, or service on, any person of any notice, notification, statement, declaration, certificate or direction;

- (c) the imposition on any person of any requirement or the issue to any person of any request;
  - (d) the making of any return, claim, election or application;
  - (e) the amendment or withdrawal of anything mentioned in paragraphs (a) to (d).
- (7) In this section –

“electronic communications” includes any communications by means of a telecommunication system (within the meaning of the Telecommunications Act 1984);

“legislation” means any statutory provision or Community legislation that applies to the Island by virtue of an order under section 1(3)(g) of the Customs and Excise Act 1993<sup>(b)</sup>;

“payment” includes a repayment;

“records” includes records in electronic form.

#### **Use of electronic communications under other provisions**

58C. (1) Without prejudice to section 58B, where any power to make subordinate legislation for or in connection with the delivery of information or the making of payments is conferred in relation to any matter relating to value added tax on the Treasury, that power shall be taken (to the extent that it would not otherwise be so taken) to include power to make any such provision in relation to the delivery of that information or the making of those payments as could be made by any person by regulations in exercise of a power conferred by that section.

(2) Provision made in exercise of the powers conferred by section 58B or subsection (1) shall have effect notwithstanding so much of any enactment or subordinate legislation as (apart from the provision so made) would require –

- (a) any information to be delivered, or
- (b) any amount to be paid,

in a form or manner that would preclude the use of electronic communications for its delivery or payment, or the use in connection with its delivery or payment of an intermediary.

(3) Expressions used in this section and section 58B have the same meanings in this section as in that section.”.


Made this

28<sup>th</sup>

day of

February

2007

  
Minister for the Treasury

<sup>(b)</sup> 1993 c.7.

**EXPLANATORY NOTE**

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

This Order amends the Value Added Tax Act 1996, inserting new sections 58B and 58C.

The new sections allow the Treasury to make regulations necessary for the introduction of electronic returns and electronic payments of value added tax.

