



## VALUE ADDED TAX ACT 1996

### VALUE ADDED TAX (EXCEPTIONS RELATING TO SUPPLIES NOT MADE TO RELEVANT BUSINESS PERSON) ORDER 2011

*Laid before Tynwald*

*15 February 2011*

*Coming into operation in accordance with article 2*

The Treasury makes this Order under sections 7A(6) and 95(6) of the Value Added Tax Act 1996<sup>(1)</sup>.

**1 Title**

This Order is the Value Added Tax (Exceptions Relating to Supplies not Made to Relevant Business Person) Order 2011.

**2 Commencement**

This Order comes into operation on the day after it is made but once it is in operation it has effect in relation to supplies made on or after 1 January 2011.

**3 Amendment of Schedule 4A to the Value Added Tax Act 1996**

In Part 3 of Schedule 4A<sup>(2)</sup> to the Value Added Tax Act 1996 (place of supply of services: exceptions relating to supplies not made to relevant business person), in paragraph 16 (other services provided to recipient belonging outside EC), for subparagraph (2)(f) substitute—

“(f) the provision of access to, or transmission or distribution through—

- (i) a natural gas system situated within the territory of a member State<sup>(3)</sup> or any network connected to such a system, or
- (ii) an electricity system, or
- (iii) a network through which heat or cooling is supplied,

<sup>(1)</sup> 1996 c.1; section 7A was inserted by SD 596/09. Section 95(6) allows for Orders to be made retrospective where the Treasury considers it necessary to conform with a rule, regulation or order under corresponding United Kingdom VAT legislation

<sup>(2)</sup> Schedule 4A was inserted by SD 596/09

<sup>(3)</sup> For the purpose of VAT, the Island is treated as if part of a member State

and the provision of other directly linked services,”.

MADE

12<sup>th</sup> January 2011

June Craigie

Minister for the Treasury

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#### EXPLANATORY NOTE

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

This Order, which comes into operation with effect from 1 January 2011, amends paragraph 16(2)(f) (other services provided to recipient belonging outside EC) (“paragraph 16(2)(f)”) of Part 3 (exceptions relating to supplies not made to relevant business person) of Schedule 4A (place of supply of services: special rules) (“Schedule 4A”) to the Value Added Tax Act 1996.

Council Directive 2006/112/EC (OJ No L347, 11.12.06, p1) (“the Principal VAT Directive”) establishes a common system of value added tax applicable throughout the European Union. Certain provisions of the Principal VAT Directive have been amended by Council Directive 2009/162/EU (OJ No L10, 15.1.10, p14) (“the Technical Directive”) with effect from 15 January 2010. Member states were required to transpose the amendments with effect from 1 January 2011.

The effect of Article 59(h) of the Principal VAT Directive is that the provision of access to, or of transport or transmission through a natural gas system situated in the EU or any network connected to such a system, the electricity system or heating and cooling networks and other directly linked services when supplied to non-taxable persons situated outside the EU are treated, for VAT purposes, as being supplied in the territory where the recipient belongs.

Prior to amendment by the Technical Directive Article 59(h) did not refer to heating and cooling networks, made reference to distribution systems rather than systems and, in the case of natural gas, did not make any provision as to the location of those systems.

Article 59(h) is implemented by paragraph 16(2)(f) of Schedule 4A. The effect of paragraph 16(2)(f) is that the provision of access to, or of transport or transmission through, natural gas and electricity distribution systems and the provision of other directly linked services are treated as made where the recipient belongs if that recipient is not a relevant business person i.e. is not registered for VAT in the UK or Isle of Man, or any other member State or engaged in economic activity anywhere and belongs in a country which is not a member State. For the purpose of VAT, the Isle of Man is treated as part of a member State.

This Order implements the Technical Directive’s amendment to Article 59(h) of the Principal VAT Directive by amending paragraph 16(2)(f) of Schedule 4A to change the description and location of the natural gas pipeline and to add a reference to a network through which heat or cooling is supplied.