
STATUTORY INSTRUMENTS

1995 No. 283

VALUE ADDED TAX

The Value Added Tax (Protected Buildings) Order 1995

Approved by The House of Commons

<i>Made</i>	- - - -	<i>8th February 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>8th February 1995</i>
<i>Coming into force</i>	- -	<i>1st March 1995</i>

The Treasury, in exercise of the powers conferred on them by sections 30(4) and 96(9) of the Value Added Tax Act 1994⁽¹⁾ and of all powers enabling them in that behalf, hereby make the following Order:

1. This Order may be cited as the Value Added Tax (Protected Buildings) Order 1995 and shall come into force on the 1st March 1995.
2. For Group 6 of Schedule 8 of the Value Added Tax Act 1994 there shall be substituted—

“GROUP 6

—PROTECTED BUILDINGS

Item No.

1. The first grant by a person substantially reconstructing a protected building, of a major interest in, or in any part of, the building or its site.
2. The supply, in the course of an approved alteration of a protected building, of any services other than the services of an architect, surveyor or any person acting as consultant or in a supervisory capacity.
3. The supply of building materials to a person to whom the supplier is supplying services within item 2 of this Group which include the incorporation of the materials into the building (or its site) in question.

Notes:

(1) “Protected building” means a building which is designed to remain as or become a dwelling or number of dwellings (as defined in Note (2) below) or is intended for use solely for a relevant residential purpose or a relevant charitable purpose after the reconstruction or alteration and which, in either case, is—

- (a) a listed building within the meaning of—
 - (i) the Planning (Listed Buildings and Conservation Areas) Act 1990⁽²⁾; or
 - (ii) the Town and Country Planning (Scotland) Act 1972⁽³⁾; or
 - (iii) the Planning (Northern Ireland) Order 1991⁽⁴⁾; or
- (b) a scheduled monument, within the meaning of—
 - (i) the Ancient Monuments and Archaeological Areas Act 1979⁽⁵⁾; or
 - (ii) the Historic Monuments Act (Northern Ireland) 1971⁽⁶⁾.

(2) A building is designed to remain as or become a dwelling or number of dwellings where in relation to each dwelling the following conditions are satisfied—

- (a) the dwelling consists of self-contained living accommodation;
- (b) there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling;
- (c) the separate use, or disposal of the dwelling is not prohibited by the terms of any covenants, statutory planning consent or similar provision,

and includes a garage (occupied together with a dwelling) either constructed at the same time as the building or where the building has been substantially reconstructed at the same time as that reconstruction.

(3) Notes (1), (4), (6), (12) to (14) and (22) to (24) of Group 5 apply in relation to this Group as they apply in relation to that Group but subject to any appropriate modifications.

(4) For the purposes of item 1, a protected building shall not be regarded as substantially reconstructed unless the reconstruction is such that at least one of the following conditions is fulfilled when the reconstruction is completed—

- (a) that, of the works carried out to effect the reconstruction, at least three-fifths, measured by reference to cost, are of such a nature that the supply of services (other than excluded services), materials and other items to carry out the works, would, if supplied by a taxable person, be within either item 2 or item 3 of this Group; and
- (b) that the reconstructed building incorporates no more of the original building (that is to say, the building as it was before the reconstruction began) than the external walls, together with other external features of architectural or historic interest;

and in paragraph (a) above “excluded services” means the services of an architect, surveyor or other person acting as consultant or in a supervisory capacity.

(5) Where part of a protected building that is substantially reconstructed is designed to remain as or become a dwelling or a number of dwellings or is intended for use solely for a relevant residential or relevant charitable purpose (and part is not)—

- (a) a grant or other supply relating only to the part so designed or intended for such use (or its site) shall be treated as relating to a building so designed or intended for such use;

(2) 1990 c. 9
 (3) 1972 c. 52.
 (4) S.I.1991/1220 (N.I.11).
 (5) 1979 c. 46.
 (6) 1971 c. 17 (N.I.).

- (b) a grant or other supply relating only to the part neither so designed nor intended for such use (or its site) shall not be so treated; and
 - (c) in the case of any other grant or other supply relating to, or to any part of, the building (or its site), an apportionment shall be made to determine the extent to which it is to be so treated.
- (6) “Approved alteration” means—
- (a) in the case of a protected building which is an ecclesiastical building to which section 60 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies, any works of alteration; and
 - (b) in the case of a protected building which is a scheduled monument within the meaning of the Historic Monuments Act (Northern Ireland) 1971 and in respect of which a protection order, within the meaning of that Act, is in force, works of alteration for which consent has been given under section 10 of that Act; and
 - (c) in any other case, works of alteration which may not, or but for the existence of a Crown interest or Duchy interest could not, be carried out unless authorised under, or under any provision of—
 - (i) Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990,
 - (ii) Part IV of the Town and Country Planning (Scotland) Act 1972,
 - (iii) Part V of the Planning (Northern Ireland) Order 1991,
 - (iv) Part I of the Ancient Monuments and Archaeological Areas Act 1979,and for which, except in the case of a Crown interest or Duchy interest, consent has been obtained under any provision of that Part,
- but does not include any works of repair or maintenance, or any incidental alteration to the fabric of a building which results from the carrying out of repairs, or maintenance work.
- (7) For the purposes of paragraph (a) of Note (6), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (8) For the purposes of paragraph (c) of Note (6) “Crown interest” and “Duchy interest” have the same meaning as in section 50 of the Ancient Monuments and Archaeological Areas Act 1979.
- (9) Where a service is supplied in part in relation to an approved alteration of a building, and in part for other purposes, an apportionment may be made to determine the extent to which the supply is to be treated as falling within item 2.
- (10) For the purposes of item 2 the construction of a building separate from, but in the curtilage of, a protected building does not constitute an alteration of the protected building.
- (11) Item 2 does not include the supply of services described in paragraph 1(1) or 5(4) of Schedule 4.”

8th February 1995

Tim Wood
Derek Conway
Two of the Lords Commissioners of Her
Majesty’s Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order substitutes Group 6 (Protected Buildings) of Schedule 8 to the Value Added Tax Act 1994. Amendment of the Group is necessary because of the substitution of Group 5 (Construction of Buildings etc) to Schedule 8 by the value Added Tax (Construction of Buildings) Order 1995(7). New Group 6 incorporates many of the provisions in substituted Group 5 with appropriate modifications.

The Order also makes the following changes to the Group:

- the addition of a new item 3 in Group 6;
- a definition of a dwelling in Note (2);
- a new definition of approved alteration in relation to ecclesiastical buildings;
- a clearer definition of the distinction between alterations and repairs.

Item 3 of Group 6, as substituted, introduces into the Group a provision formerly contained in item 3 of Group 5 of Schedule 8, so that the zero-rate relief for the supply of certain goods together with eligible services in the course of an approved alteration is not provided within Group 6.

New Note (2) defines when a building is to be regarded as designed to remain as or become a dwelling or number of dwellings. Thus, a protected building (defined in Note (1)) which is designed to remain as or become a dwelling must satisfy these conditions in addition to being a listed building.

New Note (6) defines what is meant by “an approved alteration”. Note (6)(a) provides that ecclesiastical buildings excluded from the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 are entitled to zero-rate relief. Alteration to ecclesiastical buildings which require planning consent will, however, be entitled to zero-rate relief if the alterations are authorised under any provision of the Acts listed in Note (6)(c).

New Note (6) also brings a greater degree of certainty to the borderline between repairs that are standard-rated and approved alterations which qualify for zero-rating.

(7) S.I. 1995/280.