

2001 No. 2305

VALUE ADDED TAX

The Value Added Tax (Conversion of Buildings) Order 2001

Made - - - - 26th June 2001

Laid before the House of Commons 26th June 2001

Coming into force - - - 1st August 2001

The Treasury, in exercise of the powers conferred on them by sections 30(4), 35(5) and 96(9) of the Value Added Tax Act 1994^(a) and of all other powers enabling them in that behalf, hereby make the following Order:

1. This Order may be cited as the Value Added Tax (Conversion of Buildings) Order 2001 and shall come into force on 1st August 2001 and shall have effect in relation to supplies made on or after that date.

2. Group 5 of Schedule 8 to the Value Added Tax Act 1994^(b) (zero-rating) shall be varied in accordance with article 3 below.

3. For Note (7) there shall be substituted—

“(7) For the purposes of item 1(b), and for the purposes of these Notes so far as having effect for the purposes of item 1(b), a building or part of a building is “non-residential” if—

(a) it is neither designed, nor adapted, for use—

(i) as a dwelling or number of dwellings, or

(ii) for a relevant residential purpose; or

(b) it is designed, or adapted, for such use but—

(i) it was constructed more than 10 years before the grant of the major interest;

and

(ii) no part of it has, in the period of 10 years immediately preceding the grant, been used as a dwelling or for a relevant residential purpose.

(7A) For the purposes of item 3, and for the purposes of these Notes so far as having effect for the purposes of item 3, a building or part of a building is “non-residential” if—

(a) it is neither designed, nor adapted, for use—

(i) as a dwelling or number of dwellings, or

(ii) for a relevant residential purpose; or

(b) it is designed, or adapted, for such use but—

(i) it was constructed more than 10 years before the commencement of the works of conversion, and

^(a) 1994 c. 23; section 35(5) was added by section 30 of the Finance Act 1996 (c. 8).

^(b) Group 5 was substituted by S.I. 1995/280 and amended by S.I. 1997/50.

- (ii) no part of it has, in the period of 10 years immediately preceding the commencement of those works, been used as a dwelling or for a relevant residential purpose, and
- (iii) no part of it is being so used.”

4. Note (7A) as substituted shall apply for the purposes of section 35 of the Value Added Tax Act 1994^(a) and—

- (a) in subsection (4) of that section, at the end there shall be inserted “but this is subject to subsection (4A) below.”, and
- (b) after that subsection there shall be inserted—

“(4A) The meaning of “non-residential” given by Note (7A) of Group 5 of Schedule 8 (and not that given by Note (7) of that Group) applies for the purposes of this section but as if—

 - (a) references in that Note to item 3 of that Group were references to this section, and
 - (b) paragraph (b)(iii) of that Note were omitted.”

Nick Ainger
Graham Stringer
Two of the Lords Commissioners
of Her Majesty’s Treasury

26th June 2001

(a) 1994 c. 23; section 35 was amended by the Finance Act 1996 (c. 8).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st August 2001, replaces Note (7) in Group 5 of Schedule 8 to the Value Added Tax Act 1994 (c. 23) (“the Act”) and introduces a new Note (7A). The latter Note is also applied for the purposes of section 35 of the Act.

The new Notes are set out in Article 3 of the Order. Each contains a change in the definition of a “non-residential” building or part of a building, for the purposes of items 1(b) and 3, respectively, in Group 5 of Schedule 8 to the Act. The new definition will now include buildings, or parts of buildings, that have not been used as a dwelling or number of dwellings or for a relevant residential purpose for a period of ten years or more.

Section 35(4) of the Act applies the notes to Group 5 of Schedule 8 for the purposes of construing section 35 (refund of VAT to persons constructing certain buildings). Article 4 of the Order makes it clear that it is the definition in new Note (7A), and not Note (7), that applies for the purposes of section 35 of the Act.

A Regulatory Impact Assessment (VAT: on Housing) was published on 7 March 2001 and can be obtained from Construction and Utilities Team, Commercial Division, Customs and Tax Practice, HM Customs and Excise, New King’s Beam House, 22 Upper Ground, London, SE1 9PJ or from the HM Customs and Excise Website (www.hmce.gov.uk).

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