

2005 No. 2010 (C.88)

VALUE ADDED TAX

The Finance (No. 2) Act 2005, section 6, (Appointed Day and Savings Provisions) Order 2005

Made - - - -

21st July 2005

The Treasury, in exercise of the powers conferred upon them by section 6(2) and (3) of the Finance (No. 2) Act 2005(a), hereby make the following Order:

1.—(1) This Order may be cited as the Finance (No. 2) Act 2005, section 6, (Appointed Day and Savings Provisions) Order 2005.

(2) In this Order references to paragraphs are to those paragraphs of Schedule 11A to the Value Added Tax Act 1994(b).

2. The day appointed under section 6(2) of the Finance (No. 2) Act 2005 is 1st August 2005.

3. Paragraph 6(1)(c)(c)(reduction in non-deductible tax) shall not apply in relation to any prescribed accounting period beginning before the day appointed by article 2.

4.—(1) This article applies in relation to any prescribed accounting period beginning before the day appointed by article 2 where a taxable person has treated, or intends to treat, a tax advantage as having been obtained for the purposes of—

(a) any VAT return made in respect of that period; or

(b) any claim for repayment of output tax or increase in credit for input tax in respect of that period.

(2) Any relevant tax advantage shall be disregarded for the purposes of paragraph 5(3)(meaning of notifiable scheme).

(3) Relevant tax advantage means any tax advantage falling within paragraph 2(1)(d) or 2(2)(d) (obtaining a tax advantage).

*Dave Watts
Gillian Merron*

21st July 2005

Two of the Lords Commissioners of Her Majesty's Treasury

(a) 2005 c. 22.

(b) 1994 c. 23; Schedule 11A was inserted by section 19 of, and Schedule 2 to, the Finance Act 2004 (c. 12).

(c) Paragraph 6(1)(c) was inserted by paragraph 5(2) of Schedule 1 to the Finance (No. 2) Act 2005 (c. 22).

(d) Paragraph 2 was substituted by paragraph 3 of Schedule 1 to the Finance (No. 2) Act 2005 (c. 22).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints 1st August 2005 as the day on or after which section 6 of the Finance (No. 2) Act 2005(c.22) has effect. That section provides that Schedule 1 to the Act shall come into force. Schedule 1 amends Schedule 11A to the Value Added Tax Act 1994 (c.23)(disclosure of avoidance schemes).

Taxable persons are, in the circumstances specified in Schedule 11A to the Value Added Tax Act 1994, required to notify the Commissioners for Her Majesty's Revenue and Customs(a) where they are a party to any scheme or provision designated in an Order made under that Schedule. That Order is the Value Added Tax (Disclosure of Avoidance Schemes)(Designations) Order 2004 (S.I. 2004/1933 as amended by S.I. 2005/1724). Failure to notify may lead to the imposition of a penalty.

Article 3 provides that paragraph 6(1)(c) of Schedule 11A (reduction in non-deductible tax), which was inserted by the Finance (No. 2) Act 2005, shall not apply in relation to any prescribed accounting period beginning before 1st August 2005.

Article 4 of this Order applies where a taxable person has treated, or intends to treat, a tax advantage as having been obtained for the purposes of any VAT return, or claim, made in respect of a prescribed accounting period beginning before 1st August 2005. Any relevant tax advantage is to be disregarded for the purposes of paragraph 5(3) of that Schedule (meaning of notifiable scheme). A relevant tax advantage is defined as a tax advantage falling within paragraph 2(1)(d) or 2(2) of Schedule 11A, as inserted by the Finance (No. 2) Act 2005.

(a) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

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