

Order made by the Treasury, laid before the House of Commons under section 97(3) of the Value Added Tax Act 1994, for approval by resolution of that House within twenty-eight days beginning with the date on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2010 No. 3017

VALUE ADDED TAX

The Value Added Tax (Exceptions Relating to Supplies not Made to Relevant Business Person) Order 2010

<i>Made</i>	- - - -	<i>20th December 2010</i>
<i>Laid before the House of Commons</i>		<i>21st December 2010</i>
<i>Coming into force</i>	- -	<i>1st January 2011</i>

The Treasury, in exercise of the powers conferred by section 7A(6) of the Value Added Tax Act 1994(a), make the following Order:

1.—(1) This Order may be cited as the Value Added Tax (Exceptions Relating to Supplies not Made to Relevant Business Person) Order 2010.

(2) This Order comes into force on 1st January 2011 and has effect in relation to supplies made on or after that date.

2. In Part 3 of Schedule 4A(b) to the Value Added Tax Act 1994 (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 sub-paragraph (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 or any network connected to such a system, or

(ii) an electricity system, or

(iii) a network through which heat or cooling is supplied,

and the provision of other directly linked services.”

Angela Watkinson

Brooks Newmark

20th December 2010

Two of the Lords Commissioners of Her Majesty's Treasury

(a) 1994 c. 23; section 7A was inserted by section 76 of, and paragraphs 1 and 4 of Part 1 of Schedule 36 to, the Finance Act 2009 (c. 10).

(b) Schedule 4A was inserted by section 76 of, and paragraphs 1 and 11 of Part 1 of Schedule 36 to, the Finance Act 2009 (c. 10) and amended by section 76 of, and paragraphs 1 and 15 of Part 2 of Schedule 36 to, the Finance Act 2009 (c. 10).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 1st 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 1994 (c.23).

Council Directive 2006/112/EC (OJ No L 347, 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 L 10, 15.1.10, p14) (“the Technical Directive”) with effect from 15th January 2010. Member states are required to transpose the amendments with effect from 1st 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 (which includes for these purposes the crown dependency of the 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 (excluding the crown dependency of the Isle of Man).

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.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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