STATUTORY INSTRUMENTS

1977 No. 1795

VALUE ADDED TAX

The Value Added Tax (Cars) Order 1977

Made - - -	1*st November* 1977
Laid before the House of Commons - -	10*th November* 1977
Coming into Operation	1*st January* 1978

The Treasury, in exercise of the powers conferred on them by sections 3(9), 6(3), 6(5), 14, 21(2) and 43(1) of the Finance Act 1972(**a**), as amended by the Finance Act 1977(**b**), hereby make the following Order:—

Citation and commencement

1. This Order may be cited as the Value Added Tax (Cars) Order 1977 and shall come into operation on the 1st January 1978.

Interpretation

2.—(1) The Interpretation Act 1889(**c**) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) In this Order—

"the Act" means the Finance Act 1972;

"car dealer" means a taxable person who carries on a business which consists of or includes the sale of motor cars;

"finance agreement" means an agreement for the sale of goods whereby the property in those goods is not to be transferred until the whole of the price has been paid and the seller retains the right to repossess the goods;

"goods" for the purpose of Article 5 means those goods, whether or not complete, which are—

(*a*) supplied to, or imported by, a taxable person on or after 1st May 1975, and

(*b*) comprised in the items of the table set out in Schedule 1 to this Order, which shall be interpreted in accordance with the Notes contained therein;

"insurer" means a person permitted by section 2(1) and (2) of the Insurance Companies Act 1974(**d**) to effect and carry out contracts of insurance against risks of loss of or damage to motor vehicles; and

"motor car" means any motor vehicle of a kind normally used on public roads which has three or more wheels and either—

(**a**) 1972 c. 41. (**b**) 1977 c. 36. (**c**) 1889 c. 63.
(**d**) 1974 c. 49.

(*a*) is constructed or adapted solely or mainly for the carriage of passengers; or

(*b*) has to the rear of the driver's seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows;

but does not include—

(*a*) vehicles capable of accommodating only one person or suitable for carrying twelve or more persons;

(*b*) vehicles of not less than three tons unladen weight;

(*c*) caravans, ambulances and prison vans;

(*d*) vehicles of a type approved by the Assistant Commissioner of Police of the Metropolis as conforming to the conditions of fitness for the time being laid down by him for the purposes of the London Cab Order 1934(**a**);

(*e*) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.

Revocation and Savings

3.—(1) The Orders set out in Schedule 2 to this Order are revoked.

(2) In so far as any requirement made or direction or permission given by the Commissioners or anything done under or for the purpose of the Orders revoked by this Order could have been made, given or done under or for the purpose of the corresponding provision of this Order, it shall not be invalidated by the revocation but shall have effect as if made, given or done under or, as the case may be, for the purpose of that corresponding provision.

(3) Anything begun under or for the purpose of an Order revoked by this Order may be continued under or, as the case may be, for the purpose of the corresponding provision of this Order.

(4) Where any document used or required for the purpose of the tax refers to a provision of an Order revoked by this Order, such reference shall, unless the contrary intention appears, be construed as referring to the corresponding provision of this Order.

Disallowance of Input Tax

4.—(1) Tax charged on the supply or importation of a motor car shall be excluded from any credit under sections 3 and 4 of the Act except where—

(*a*) the supply is a letting on hire; or

(*b*) the motor car is supplied or imported for the purpose of its conversion into a vehicle which is not a motor car; or

(*c*) the motor car is unused and is supplied or imported for the purpose of being sold.

(2) The reference in this Article to a sale includes any supply under a hire-purchase agreement.

(**a**) S.R. & O. 1934/1346 (Rev. XIV, p. 795: 1934 I, p. 1221).

5. Where goods are installed in or added to a motor car by, or to the order of, a taxable person and the taxable person supplies that motor czr together with the goods in circumstances where tax is charged on the whole supply at the rate applicable to the motor car, tax charged on the supply to, or importation by, the taxable person of the goods installed or added, shall be excluded from any credit under sections 3 and 4 of the Act except where—

(*a*) the motor car is a chargeable vehicle for the purposes of car tax; and

(*b*) the goods are installed before the motor car is first sent out from the premises of the taxable person by whom the motor car is made or imported.

Self-Supply

6.—(1) This Article applies to the following motor cars produced or acquired by a taxable person in the course or furtherance of a business carried on by him, that is to say—

(*a*) any motor car produced by him otherwise than by the conversion of a vehicle acquired by him;

(*b*) any motor car produced by him by the conversion of another vehicle (whether a motor car or not) with respect to which the conditions specified in paragraph (2) below are satisfied;

(*c*) any motor car acquired by him with respect to which those conditions are satisfied.

(2) The conditions mentioned in paragraph (1) above are—

(*a*) that the motor car or other vehicle was imported by the taxable person or supplied to him under a taxable supply; and

(*b*) that tax on the importation or supply has been or may be credited under sections 3 and 4 of the Act.

(3) Where a motor car to which this Article applies—

(*a*) is neither supplied by the taxable person in the course or furtherance of the business carried on by him nor converted into another vehicle (whether a motor car or not) in the course or furtherance of that business; but

(*b*) is used by him for the purpose of that business;

the motor car shall be treated for the purposes of Part I of the Act as both supplied to him for the purposes of that business and supplied by him in the course or furtherance of that business, except where the motor car is one to which this Article applies by virtue of paragraph (1)(a) above and the Commissioners are satisfied that it is used solely for the purpose of research or development.

(4) The preceding provisions of this Article shall apply in relation to any bodies corporate which are treated for the purposes of section 21 of the Act as members of a group as if those bodies were one person, but any motor car which would fall to be treated as supplied to and by that person shall be treated as supplied to and by the representative member.

Relief for second-hand motor cars

7.—(1) Subject to paragraph (2) of this Article—

(*a*) on the supply by any person of a used motor car, tax shall be chargeable as if the supply were for a consideration equal to the excess of—

(i) the consideration for which the motor car is supplied by him, over

(ii) the consideration for which the motor car was acquired by him,

and accordingly shall not be charged unless there is such an excess;

(*b*) on the supply by a person of a used motor car which was imported by him, the consideration for which it was acquired by him shall be taken to be the value of the motor car for the purpose of charging tax on importation together with any tax or purchase tax chargeable at that time;

(*c*) on the supply by a person of a used motor car previously treated under Article 6 above as supplied by and to him, paragraph (a) above shall apply as if for the consideration referred to in sub-paragraph (ii) there were substituted the amount by reference to which tax was chargeable on the previous supply plus the tax so chargeable.

(2) This Article does not apply to:—

(*a*) a supply which is a letting on hire;

(*b*) the supply by any person of a motor car which was produced by him, if it was neither previously supplied by him in the course or furtherance of a business carried on by him nor treated as so supplied by virtue of Article 6 above;

(*c*) any supply if an invoice or similar document showing an amount as being tax or as being attributable to tax is issued in respect of the supply;

(*d*) a supply by a car dealer unless he keeps such records and accounts as the Commissioners may specify in the notice published by them for the purposes of this Order or may recognise as sufficient for those purposes.

Treatment of Transactions

8. Each of the following descriptions of transaction shall be treated as neither a supply of goods nor a supply of services—

(*a*) the disposal by a person who repossessed it under the terms of a finance agreement of a used motor car in the same condition as it was in when it was so repossessed;

(*b*) the disposal by an insurer of a used motor car acquired in the settlement of a claim under a policy of insurance and in the same condition as it was in when it was so acquired.

T. E. Graham,

David Stoddart,
Two of the Lords Commissioners of
Her Majesty's Treasury.

1st November 1977.

SCHEDULE 1 Article 2(2)

TABLE

Item No.

1. Radio receivers or transmitters.
2. Gramophones or tape recorders.
3. Television sets.
4. Aerials.

Notes

(1) Items 1–3 include goods which are capable of use as, or can be adapted to produce, goods within those items.

(2) Item 2 includes video cassette machines and other equipment for recording or reproducing sound or visual images by means of gramophone records, magnetic tape or similar recording media.

SCHEDULE 2 Article 3(1)

Orders Revoked	References
The Value Added Tax (Cars) Order 1972	S.I. 1972/1970 (1972 III, p. 5877).
The Value Added Tax (Treatment of Transactions) (No. 4) Order 1973, so far as it relates to motor cars.	S.I. 1973/336 (1973 I, p. 1182).
The Value Added Tax (Cars) (Amendment) Order 1973.	S.I. 1973/388 (1973 I, p. 1328).
The Input Tax (Exceptions) (No. 1) Order 1975	S.I. 1975/624 (1975 I, p. 2229).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates, with minor drafting amendments, and revokes certain Orders (listed in Schedule 2) made under the Finance Act 1972 concerning the treatment for value added tax purposes of new and used motor cars.

Article 3 contains savings provisions.

Articles 4 6 and 7 contain provisions concerning the deduction of input tax on the supply or importation of new or used motor cars, the self-supply of certain motor cars and the charging of tax, subject to specified conditions, on the margin (i.e. the difference between the buying price and the selling price) on sales of used motor cars.

Article 5 concerns the deduction of input tax on certain goods installed in a motor car and supplied with it at the standard rate of tax.

Article 8 removes from the scope of the tax disposals by finance houses and insurers of used motor cars which have been acquired by them in certain specified circumstances.

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