

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 the House of Commons within 28 days beginning with the day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than 4 days.

STATUTORY INSTRUMENTS

2018 No. 1194

VALUE ADDED TAX

**The Value Added Tax (Place of Supply of Services)
(Supplies of Electronic, Telecommunication
and Broadcasting Services) Order 2018**

<i>Made</i>	- - - -	<i>at 11.00 a.m. on the 19th November 2018</i>
<i>Laid before House of Common</i>		<i>at 3.00 p.m. on the 19th November 2018</i>
<i>Coming into force</i>	- -	<i>1st January 2019</i>

The Treasury make the following Order in exercise of the power conferred by section 7A(6)(b) of the Value Added Tax Act 1994(1).

Citation, commencement and effect

1.—(1) This Order may be cited as the Value Added Tax (Place of Supply of Services) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018.

(2) This Order comes into force on 1st January 2019 and has effect in relation to supplies made on or after that date.

Amendments to Part 3 of Schedule 4A to the Value Added Tax Act 1994

2. Part 3 of Schedule 4A to the Value Added Tax Act 1994(2) (exceptions relating to supplies not made to relevant business person) is amended as follows.

3. In paragraph 15 (electronically supplied, telecommunication and broadcasting services)—

(a) in sub-paragraph (1), after “but see” insert “sub-paragraph (3) and”, and

(b) after sub-paragraph (2) insert—

(1) 1994 c. 23; section 7A was inserted by paragraph 4 of Schedule 36 to the Finance Act 2009 (c. 10).

(2) Schedule 4A was both inserted and amended from a later date by Schedule 36 to the Finance Act 2009; see paragraphs 11, 15 and 17 of Schedule 36. Further amendments have been made to paragraph 15 by S.I. 2014/2726 and 2017/778.

- “(3) Sub-paragraph (1) does not apply in relation to a supply of services where—
- (a) the supplier of the services belongs in only one member State,
 - (b) the services are supplied to relevant EU persons,
 - (c) the value of the supply, taken together with the value of relevant supplies already made by the supplier in the calendar year in which the supply is made, does not exceed £8,818, and
 - (d) the value of relevant supplies made by the supplier in the calendar year preceding that in which the supply is made did not exceed £8,818,

unless the supplier has made an election under this paragraph or under the law of a member State in which the supplier belongs that the supply is to be treated as made in the country in which the recipient belongs.

(4) An election may be made for the purposes of this paragraph by a supplier who belongs in the UK in relation to relevant supplies made by that supplier.

(5) An election under this paragraph must—

- (a) be made by notice in writing,
- (b) specify the date on which the election is made, and
- (c) be received by the Commissioners no later than 30 days after that date.

(6) An election made by a supplier under this paragraph has effect in relation to relevant supplies made by that supplier—

- (a) on the day on which the election is made,
- (b) on subsequent days in the same calendar year, and
- (c) in the next two calendar years.

(7) For the purposes of this paragraph—

“relevant EU persons” means persons belonging in a member State or member States other than that in which the supplier belongs, and

“relevant supplies” means supplies to relevant EU persons of services to which this paragraph applies;

references to the value of supplies are to their value excluding VAT.”.

Mike Freer

Rebecca Harris

Two of the Lords Commissioners of Her Majesty's Treasury

At 11.00 a.m. on the 19th November 2018

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends paragraph 15 of Part 3 of Schedule 4A to the Value Added Tax Act 1994 (“the Act”) which determines the place of supply for electronically supplied services, telecommunication services and broadcasting services. This Order has effect in relation to the supplies of such services made on or after 1st January 2019.

Section 7A of the Act specifies the general rules for determining the place of supply of services for the purpose of UK value added tax. Where a supply is made to a private (non-business) customer, the general rule is that the place of supply is treated as the country where the supplier belongs. The general rule in section 7A is subject to the exceptions which are set out in Schedule 4A. Paragraph 15(1) of that Schedule provides that, as an exception to this rule, a supply described above is treated as being made in the country where the recipient belongs.

Article 3 amends paragraph 15 so that the exception in paragraph 15(1) does not apply where a supply is made to a private customer who belongs in another member State and where the value of the supply, when taken with such supplies already made in the calendar year, does not exceed £8,818 and such supplies made in the preceding year also did not exceed that amount. This is so provided that the supplier has not elected for the place of supply to be treated as being made in the country where the recipient belongs. Article 3 also provides for the making of and the duration of the election.

These amendments are required to implement the amendments made to Article 58 of Council Directive 2006/112/EC on the common system of value added tax⁽³⁾ by Council Directive (EU) 2017/2455⁽⁴⁾ with effect from 1st January 2019. (Article 58 was also amended by Council Directive 2008/8/EC⁽⁵⁾). A Transposition Note explaining how Council Directive 2017/2455/EU is transposed into UK law is annexed to the Explanatory Memorandum which is available alongside this Order on the National Archives website <http://www.legislation.gov.uk>.

A Tax Information and Impact Note covering this instrument was published on 11th September 2018 alongside a draft of this Order and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

(3) OJ No L 347, 11.12.2006, p. 1-118.

(4) OJ No L 348, 29.12.2017, p. 7-22.

(5) OJ No L 44, 20.2.2008, p. 11-22.