

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

2008 No. 1892

VALUE ADDED TAX

The Value Added Tax (Finance) Order 2008

<i>Made</i>	- - - -	<i>17th July 2008</i>
<i>Laid before the House of Commons</i>		<i>17th July 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Treasury, in exercise of the powers conferred by sections 31(2) and 96(9) of the Value Added Tax Act 1994(a), make the following Order.

Citation and commencement

1. This Order may be cited as the Value Added Tax (Finance) Order 2008, and shall come into force on 1st October 2008.

Variation to Group 5 of Schedule 9 to the Value Added Tax Act 1994

2.—(1) Group 5(b) of Schedule 9 to the Value Added Tax Act 1994 is varied as follows.

(2) For Item 9 substitute—

“9. The management of—

- (a) an authorised open-ended investment company; or
- (b) an authorised unit trust scheme; or
- (c) a Gibraltar collective investment scheme; or
- (d) an individually recognised overseas scheme; or
- (e) a recognised collective investment scheme authorised in a designated country or territory; or
- (f) a recognised collective investment scheme constituted in another EEA state(c).”

(3) For Item 10 substitute—

“10. The management of a closed-ended collective investment undertaking.”

(a) 1994 c. 23.

(b) Group 5 was varied by S.I. 1997/510, S.I. 2001/3649 and S.I. 2003/1569; there are other amending instruments but none is relevant.

(c) “EEA state” is defined in Schedule 1 to the Interpretation Act 1978 (c. 30) as amended by section 26(1) of the Legislative and Regulatory Reform Act 2006 (c. 51).

(4) For Note (6) substitute—

“(6) For the purposes of this Group—

“authorised open-ended investment company” and “authorised unit trust scheme” have the meaning given in section 237(3) of the Financial Services and Markets Act 2000(a);

“closed-ended collective investment undertaking” means an undertaking in relation to which the following conditions are satisfied—

- (a) its sole object is the investment of capital, raised from the public, wholly or mainly in securities; and
- (b) it manages its assets on the principle of spreading investment risk; and
- (c) all of its ordinary shares (of each class if there is more than one) or equivalent units are included in the official list maintained by the Financial Services Authority pursuant to section 74(1) of the Financial Services and Markets Act 2000; and
- (d) all of its ordinary shares (of each class if there is more than one) or equivalent units are admitted to trading on a regulated market situated or operating in the United Kingdom;

“Gibraltar collective investment scheme” means—

- (a) a collective investment scheme to which section 264 of the Financial Services and Markets Act 2000 applies pursuant to an order made under section 409(1)(d) of that Act; or
- (b) a collective investment scheme to which the Financial Services and Markets Act 2000 applies pursuant to an order made under section 409(1)(f) of that Act;

“individually recognised overseas scheme” means a collective investment scheme declared by the Financial Services Authority to be a recognised scheme pursuant to section 272 of the Financial Services and Markets Act 2000;

“recognised collective investment scheme authorised in a designated country or territory” means a collective investment scheme recognised pursuant to section 270 of the Financial Services and Markets Act 2000;

“recognised collective investment scheme constituted in another EEA state” means a collective investment scheme which is recognised pursuant to section 264 of the Financial Services and Markets Act 2000;

“regulated market” has the meaning given in section 103(1) of the Financial Services and Markets Act 2000(b).”.

(5) Omit Notes (8) and (10).

Alan Campbell
Dave Watts

17th July 2008

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 2000 c. 8.

(b) Amended by paragraphs 1, 11(1) and (2) of Schedule 15 to the Companies Act 2006 (c. 46); paragraph 11(2) will come into force on a day to be appointed.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order comes into force on 1st October 2008. It varies Group 5 of Schedule 9 (exempt supplies of financial services) to the Value Added Tax Act 1994 (c. 23) (“the Act”) to modify and clarify the scope of the Group.

Article 135(1)(g) of the Principal VAT Directive (Council Directive 2006/112 EC, OJ No L 347, 11.12.06, p1) requires member States to exempt from value added tax the management of special investment funds as defined by the member State in question.

Group 5 of Schedule 9 to the Act exempts from value added tax certain supplies relating to finance. Article 2 of this Order varies Group 5 by substituting Items 9 and 10 of, and Note (6) to, the Group.

Item 9, as amplified by Note (6), exempts the management of an authorised unit trust scheme within the meaning given in section 237(3) of the Financial Services and Markets Act 2000 (c. 8) and certain collective investment schemes recognised pursuant to sections 264, 270 or 272 of that Act or to an order made pursuant to section 409(d) or (f) of that Act. It also exempts the management of an open-ended investment company within the meaning given in section 237(3) of that Act.

Item 10 exempts the management of a closed-ended collective investment undertaking as defined in Note (6) by reference to an undertaking’s investment objectives and official listing and trading of its shares or equivalent units.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.