

**No. 51****THE VALUE ADDED TAX ORDINANCE 2001**

(Ordinance 10 of 2001 as amended by Ordinances 16 of 2002 and 36 of 2002, Public Instrument 18 of 2003 and Ordinances 38 of 2003, 25 of 2004 and 41 of 2004)

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**REGULATIONS MADE BY THE ADMINISTRATOR UNDER SECTIONS 8(3), (4), (5), (6) AND (8), 12B(4), 20(7) AND 40**


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In exercise of the powers vested in him by sections 8 (3), (4), (5), (6) and (8), 12B(4)<sup>(a)</sup>, 20(7) and 40 of the Value Added Tax Ordinance 2001, the Administrator hereby makes the following Regulations :—

**Citation**

1. These Regulations may be cited as the Value Added Tax (Special Provisions) (Amendment) Regulations 2005.

**Interpretation**

2. In these Regulations “the principal Regulations” means the Value Added Tax (Special Provisions) Regulations 2002<sup>(b)</sup>.

**Insertion of new regulations 5A and 5B**

3. There are inserted immediately after regulation 5 of the principal Regulations the following new regulations numbered regulations 5A and 5B respectively—

“Transactions not treated as acquisitions of goods from another member State.

**5A.** The removal of goods to the Areas in pursuance of a supply to a taxable person, made by a person in another member State shall not be treated as an acquisition of goods from another member State, where VAT on that supply is to be accounted for and paid in another member State by reference to the profit margin on the supply under the law of that member State corresponding to the provisions of section 40 of the Ordinance and any regulations made under that section.

Further descriptions of transactions not treated as supplies

**5B.** Subject to regulation 5A above, the removal of goods to the Areas in pursuance of a supply to a person made by a person in another member State shall be treated as neither a supply of goods nor a supply of services where VAT on that supply is to be accounted for and paid in another member State by reference to the profit margin on the supply under the law of that member State corresponding to the provisions of section 40 of the Ordinance and any regulations made under that section.”.

**Amendment of regulation 8 of the principal Regulations**

4. Regulation 8 of the principal Regulations<sup>(c)</sup> is amended as follows—

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(a) Section 12B was inserted by section 10 of Ordinance 41/2004.  
 (b) PI 7/2002, amended by PI 17/2003.  
 (c) Regulation 8 was previously amended by PI 17/2003.

- (a) in subparagraph (a)(ii) of paragraph (3), immediately after the words “paragraph (1) above” there are added the words “or a corresponding provision of the law of another member State”;
- (b) in subparagraph (v) of paragraph (3) there are added after the word “title” the words “or an acquisition by the taxable person from another member State”;
- (c) immediately after paragraph (5)(a)(ii), there is inserted the following new subparagraph to be numbered (ia)—
  - “(ia) where the goods are a work of art which was acquired from another member State by a taxable person pursuant to a supply to him by its creator or his successor in title, in the same manner as the value of the acquisition would be calculated for the purposes of the Ordinance with the addition of the VAT chargeable on the acquisition;”.

### **Amendment of regulation 9 of the principal Regulations**

5. Regulation 9(3) of the principal Regulations<sup>(d)</sup> is amended by—

- (a) substituting for the words “paragraph (5)” the words “paragraph (4)”; and
- (b) substituting for the words “paragraph (4)” the words “paragraph (5)”.

### **Amendment of regulation 10 of the principal Regulations**

6. Regulation 10 of the principal Regulations is amended as follows—

- (a) in paragraph (1)—
  - (i) after subparagraph (a) there is inserted the following new subparagraph to be numbered subparagraph (aa)—
    - “(aa) acquisition from another member State; or”;
  - (ii) immediately after the words “supplied to,” there are inserted the words “acquired from another member State”;
- (b) in paragraph (3)—
  - (i) immediately after the words “circumstances of the supply” there are inserted the words “, acquisition from another member State”; and
  - (ii) in subparagraph (a), immediately after the words “section 40 of the Ordinance” there are inserted the words “or under a corresponding provision of the law of another member State”; and
- (c) in paragraph (4), immediately after the words “of goods to” there are inserted the words “, or acquisition”.

### **Amendment of regulation 11 of the principal Regulations**

7. Regulation 11(1) of the principal Regulations is amended by inserting immediately after the words “supplied to a taxable person,” the words “or on any goods acquired from another member State by a taxable person,”.

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(d) Regulation 9 was previously amended by PI 17/2003.

### **Amendment of regulation 12 of the principal Regulations**

**8.** Regulation 12 of the principal Regulations<sup>(e)</sup> is amended as follows—

(a) for paragraph (1) there is substituted the following—

“(1) Subject to paragraphs (2) and (3) below, VAT charged on—

- (a) the supply to a taxable person;
- (b) the letting on hire to a taxable person;
- (c) the acquisition from another member State by a taxable person; or
- (d) the importation from a place outside the member States by a taxable person,

of a motor car shall be excluded from any credit under section 20 of the Ordinance.”;

(b) in paragraph (2) for the words “Paragraph (1) above does not apply where the letting on hire, the supply” there are substituted the words “Paragraph (1) above does not apply where the supply, the letting on hire, the acquisition from another member State”;

(c) in paragraph (3), immediately after the words “the supply,” there is inserted the word “acquisition”.

### **Amendment of regulation 13 of the principal Regulations**

**9.** Regulation 13 of the principal Regulations is amended as follows—

(a) in subparagraph (f) of paragraph (1), for the word “imported” there are substituted the words “acquired from another member State or imported from a place outside the member States”;

(b) in paragraph (2), for the words “VAT on any previous letting, or importation” there are substituted the words “VAT chargeable on any previous letting, acquisition from another member State or importation from a place outside the member States”;

(c) immediately after paragraph (3) there is added the following paragraph to be numbered paragraph (4)—

“(4) Neither paragraph (1)(a) nor paragraph (1)(b) shall be construed as having the effect that a transaction falling within the paragraph concerned is not a supply for the purposes of section 12B(1)(a) of the Ordinance.”.

### **Amendment of regulation 15 of the principal Regulations**

**10.** Regulation 15 of the principal Regulations is amended as follows—

(a) for subparagraph (c) in paragraph (1) there is substituted the following—

“(c) which was supplied to, or acquired from another member State or imported from a place outside the

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(e) Regulation 12 was previously amended by PI 17/2003.

States by, a taxable person and in relation to which the condition in paragraph (2) below is satisfied,”;

(b) in paragraph (2), immediately after the words “the supply to,” there are inserted the words “or acquisition”.

#### **Amendment of regulation 16 of the principal Regulations**

**11.** Regulation 16(1) of the principal Regulations is amended by substituting for the words “or imported” the words “or acquired from another member State or imported from a place outside the member States”.

#### **Amendment of regulation 18 of the principal Regulations**

**12.** Regulation 18(2) of the principal Regulations<sup>(f)</sup> is amended by substituting for subparagraph (b) the following—

“(b) a supply on which VAT was chargeable by reference to the profit margin in accordance with regulation 8(1) or a corresponding provision of the law of another member State;”.

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Dated this 16th day of June 2005.

By the Administrator’s Command,  
P. D. Draycott,  
Chief Officer,  
Sovereign Base Areas.

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(128/210/4)

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(f) Regulation 18 was previously amended by PI 17/2003.