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GOODS AND SERVICES TAX ACT 1993
(SECTIONS 10(3) AND 86(1))

GOODS AND SERVICES TAX (EXCLUDED TRANSACTIONS) ORDER 1994

ARRANGEMENT OF PARAGRAPHS

Paragraph

[23 March 1994]

Citation

1. This Order is the Goods and Services Tax (Excluded Transactions) Order 1994.

Excluded transactions

2. Except in the circumstances referred to in paragraph 3, the following supplies by a person (*A*) of assets of *A*’s business are treated as neither a supply of goods nor a supply of services:

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(*a*) the supply to a person (*B*) to whom *A* transfers *A*'s business as a going concern —

(i) where the assets are to be used by *B* in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by *A*; and

(ii) where, in a case in which *A* is a taxable person, *B* is already, or immediately becomes as a result of the transfer, a taxable person;

(*b*) the supply to a person (*C*) to whom *A* transfers part of *A*'s business as a going concern —

(i) where that part is capable of separate operation;

(ii) where the assets are to be used by *C* in carrying on the same kind of business, whether or not as part of any existing business, as that carried on by *A* in relation to that part; and

(iii) where, in a case in which *A* is a taxable person, *C* is already, or immediately becomes as a result of the transfer, a taxable person.

Supplies not to be excluded

3.—(1) Subject to sub-paragraph (2) —

(*a*) where a business, or part of a business, carried on by a taxable person is transferred as a going concern to another taxable person treated as a member of a group under section 30 of the Act; and

(*b*) where, on the transfer of the whole or part of the business, assets of the business are transferred to that taxable person,

then paragraph 2 does not apply to the transfer of such assets and accordingly, tax is chargeable on the supply in accordance with the Act.

(2) This paragraph does not apply if —

(*a*) the members of the group are entitled to credit for the whole of the input tax on supplies to them and acquisitions and importations by them —

(i) during the prescribed accounting period in which the assets are transferred; and

(ii) during any longer period to which regulations under section 20(4)(*b*) of the Act relate and in which the assets are transferred;

(*b*) the Comptroller is satisfied that the assets were assets of the taxable person transferring them more than 3 years before the day on which they are transferred; or

(*c*) the Comptroller is satisfied that the person by whom the asset is transferred has not received any credit for input tax arising on the supply to that person or acquisition or importation by that person of the asset.

Transfer or assignment of title to goods

4.—(1) Where a provider of hire-purchase finance transfers or assigns his, her or its title to goods comprised in a hire-purchase agreement together with the hire-purchase finance relating to such goods, the transfer or assignment of title is treated as neither a supply of goods nor a supply of services.

(2) In sub-paragraph (1), "hire-purchase finance" means the instalment credit finance in a hire-purchase agreement.

Income tax group relief

5.—(1) Where a person transfers any qualifying deduction to any other person under section 37C of the Income Tax Act 1947, such transfer is treated as neither a supply of goods nor a supply of services.

(2) In sub-paragraph (1), "qualifying deduction" means a qualifying deduction mentioned in section 37C of the Income Tax Act 1947.

Issuance or transfer of carbon credits

6.—(1) The issuance or transfer (including by way of sale) of any carbon credit or any digital representation of a carbon credit is treated as neither a supply of goods nor a supply of services.

(2) To avoid doubt, the issuance of a carbon credit under sub-paragraph (1) includes the crediting of any carbon credit by the National Environment Agency into any fixed-price carbon credit registry account under the Carbon Pricing Act 2018.

(3) In this paragraph —

"carbon credit" means —

(*a*) a certificate representing an amount of greenhouse gas emissions reduction or removal, generated from any project or programme, and (to avoid doubt) includes a certificate representing the avoidance of an amount of such emissions;

(*b*) a right to emit any greenhouse gas; or

(*c*) a means to satisfy any tax or regulatory obligation arising from the emission of any greenhouse gas,

and includes a carbon credit as defined in section 2(1) of the Carbon Pricing Act 2018;

"fixed-price carbon credit registry account" and "greenhouse gas" have the meanings given by section 2(1) of the Carbon Pricing Act 2018;

"National Environment Agency" means the National Environment Agency established under the National Environment Agency Act 2002.

Digital payment tokens

7. The provision of digital payment tokens as consideration in respect of any transaction (other than a transaction for a supply of money or digital payment tokens), is treated as neither a supply of goods nor a supply of services.