

2012 No. 735

CHARITIES

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

VALUE ADDED TAX

**The Finance Act 2010, Schedule 6, Part 1 (Further
Consequential and Incidental Provision etc) Order 2012**

<i>Made</i>	- - - -	<i>8th March 2012</i>
<i>Laid before the House of Commons</i>		<i>9th March 2012</i>
<i>Coming into force</i>	- -	<i>1st April 2012</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Order in exercise of the powers conferred by paragraph 29(1) and (2) of Schedule 6 to the Finance Act 2010(a).

The provision made by this Order appears appropriate in consequence of, or otherwise in connection with, Part 1 of that Schedule.

Citation, commencement and effect

1. This Order may be cited as the Finance Act 2010, Schedule 6, Part 1 (Further Consequential and Incidental Provision etc) Order 2012 and comes into force on 1st April 2012.

2.—(1) Article 5 has effect in relation to—

- (a) a supply of goods or services (including anything treated as such a supply) made on or after 1st April 2012,
- (b) an acquisition of goods from another member State on or after 1st April 2012, and
- (c) an importation of goods from a place outside the member States on or after 1st April 2012.

(2) In paragraph 1—

“acquisition of goods from another member State” shall be construed in accordance with section 11 of VATA 1994(a);

“another member State” has the meaning given by section 96(1) of VATA 1994(b);

“importation of goods from a place outside the member States” shall be construed in accordance with section 15 of VATA 1994;

“supply” shall be construed in accordance with section 5 of VATA 1994.

3. Article 6 has effect—

(a) for corporation tax purposes, for accounting periods(c) beginning on or after 1st April 2012, and

(b) for capital gains tax purposes, for the tax year 2012-13(d) and subsequent tax years.

4. Article 7 has effect—

(a) for corporation tax purposes, for accounting periods beginning on or after 1st April 2012, and

(b) for income tax purposes, for the tax year 2012-13(e) and subsequent tax years.

Definition of “charity” for the purposes of value added tax

5.—(1) The definition of “charity” in section 1(1) of the Charities Act 2011(f) ceases to apply for the purposes of enactments relating to value added tax to which it would otherwise apply.

(2) Accordingly, by virtue of paragraph 33(2) of Schedule 6 to the Finance Act 2010, the definition of “charity” in Part 1 of that Schedule applies for the purposes of those enactments.

Definition of “charity” for the purposes of capital gains tax

6.—(1) The definition of “charity” in section 1(1) of the Charities Act 2011 ceases to apply for the purposes of the enactments relating to capital gains tax to which it would otherwise apply.

(2) Accordingly, by virtue of paragraph 33(2) of Schedule 6 to the Finance Act 2010, the definition of “charity” in Part 1 of that Schedule applies for the purposes of those enactments.

Amendment of CTA 2009

7. In Schedule 4 to CTA 2009(g)(index of defined expressions), in the entry for “charity”, for “section 1119 of CTA 2010” substitute “paragraph 1 of Schedule 6 to FA 2010”.

*Dave Hartnett
Mike Eland*

8th March 2012

Two of the Commissioners for Her Majesty’s Revenue and Customs

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- (a) 1994 c. 23. Section 69(1) of the Finance Act 2010 (c. 13) provides that “VATA 1994” means the Value Added Tax Act 1994.
 - (b) There are amendments to section 96(1) not relevant to this Order.
 - (c) See section 1119 of the Corporation Tax Act 2010 (c. 4) for the meaning of “accounting period” for the purposes of the Corporation Tax Acts. Schedule 1 to the Interpretation Act 1978 (c. 30) defines “the Corporation Tax Acts”.
 - (d) See section 288(1ZA) of the Taxation of Chargeable Gains Act 1992 (c. 12) for the meaning of the expressions “tax year” and “the tax year 2012-13” for the purposes of enactments relating to capital gains tax. Section 288(1ZA) was inserted by paragraph 101(3) of Schedule 2 to the Finance Act 2008 (c. 9).
 - (e) See section 4(2) and (4) of the Income Tax Act 2007 (c. 3) for the meaning of the expressions “tax year” and “the tax year 2012-13” for the purposes of the Income Tax Acts. Schedule 1 to the Interpretation Act 1978 (c. 30) defines “the Income Tax Acts”.
 - (f) 2011 c. 25; section 1 extends to Scotland by virtue of subsection (2)(a) of section 356 but affects the law of Scotland only so far as mentioned in section 7. Section 1 extends to Northern Ireland by virtue of subsection (2)(b) of section 356 but affects the law of Northern Ireland only so far as mentioned in section 8.
 - (g) 2009 c. 4; the entry relating to “charity” in the index of defined expressions in Schedule 4 was amended by paragraph 704(9) of Schedule 1 to the Corporation Tax Act 2010 (c. 4). Section 69(1) of the Finance Act 2010 (c. 13) provides that “CTA 2009” means the Corporation Tax Act 2009.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order comes into force on 1st April 2012 and makes further consequential and incidental provision in consequence of, or in connection with, Part 1 of Schedule 6 to the Finance Act 2010 (c. 13) (“Schedule 6”).

Part 1 of Schedule 6 introduces a new definition of “charity” for the purposes of the taxes listed in paragraph 7 of that Schedule (it also introduces new definitions of “charitable trust” and “charitable company” for the purposes of those taxes). A body of persons or trust that is established in the UK, another EU member State or a territory specified in regulations made by the Commissioners for Her Majesty’s Revenue and Customs falls within the new definitions if it is established for charitable purposes within the meaning of section 2 of the Charities Act 2011 (c. 25) and the other conditions described in paragraph 1 of Schedule 6 are fulfilled.

Article 5 and 6 of this Order apply the new definition of “charity” for the purposes of the enactments relating to value added tax and capital gains tax to which the definition in the Charities Act 2011 applied before the coming into force of this Order.

The new definition of “charity” has already been applied for the purposes of Chapter 2 of Part 8 of the Income Tax Act 2007 (gift aid) (see paragraph 34 of Schedule 6). See also the Finance Act 2010, Schedule 6, Part 2 (Commencement) Order 2012 No.736 (c.18) which applies the new definitions for the purposes of the other taxes listed in paragraph 7 of Schedule 6. It also applies the new definitions of “charitable trust” and “charitable company” for the purposes of the Taxation of Capital Gains Act 1992 (c.12).

Article 7 amends the entry for “charity” in Schedule 4 to the Corporation Tax Act 2009 (c. 4) (index of defined expressions) to refer to paragraph 1 of Schedule 6 with effect from the times specified in article 4.

A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy. A full Impact Assessment of the effect a new definition of charity will have on the costs of business and the voluntary sector was published by HMRC on 24th March 2010 and is available on the HMRC website at <http://www.hmrc.gov.uk/budget2010/march/ext-char-tax-rel-ia-3755.pdf>. It remains an accurate summary of the impacts that apply to this instrument.

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STATUTORY INSTRUMENTS

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CORPORATION TAX

INCOME TAX

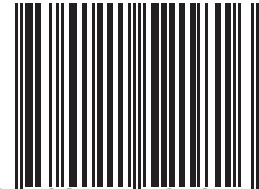
VALUE ADDED TAX

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