

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 day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2017 No. 778

VALUE ADDED TAX

**The Value Added Tax (Place of Supply of Services)
(Telecommunication Services) Order 2017**

<i>Made</i>	- - - -	<i>at 9.00 a.m. on 20th July 2017</i>
<i>Laid before the House of Commons</i>	- - - -	<i>at 1.30 p.m. on 20th July 2017</i>
<i>Coming into force</i>	- -	<i>1st November 2017</i>

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

Citation and commencement

1.—(1) This Order may be cited as the Value Added Tax (Place of Supply of Services) (Telecommunication Services) Order 2017 and comes into force on 1st November 2017.

(2) The amendments made by this Order have effect in relation to supplies of services made on or after 1st November 2017.

Amendment of Schedule 4A to the Value Added Tax Act 1994

2. In Part 1 (general exceptions) of Schedule 4A to the Value Added Tax Act 1994(2) (place of supply of services: special rules)—

- (a) in the heading to paragraph 8 omit “Telecommunication and”;
- (b) in paragraph 8(1) omit paragraph (a); and
- (c) omit paragraph 8(2).

(1) 1994 c. 23; section 7A was inserted by paragraphs 1 and 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 1, 11, 15 and 17 of Schedule 36, as read with the definition of “VATA 1994” in section 126(1) of that Act. Further amendments have been made by S.I. 2010/3017, 2011/1043, 2012/2787, 2014/2726 and 2016/726.

3. In Part 2 (exceptions relating to supplies made to relevant business person) of Schedule 4A to the Value Added Tax Act 1994, after paragraph 9D insert—

“Telecommunication services

9E.—(1) This paragraph applies to a supply of services to a relevant business person consisting of the provision of telecommunication services.

(2) In this Schedule “telecommunication services” means services relating to the transmission, emission or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, including—

- (a) the related transfer or assignment of the right to use capacity for such transmission, emission or reception, and
- (b) the provision of access to global information networks.

(3) Where—

- (a) a supply of services to which this paragraph applies would otherwise be treated as made in the United Kingdom, and
- (b) the services are to any extent effectively used and enjoyed in a country which is not a member State,

the supply is to be treated to that extent as made in that country.

(4) Where—

- (a) a supply of services to which this paragraph applies would otherwise be treated as made in a country which is not a member State, and
- (b) the services are to any extent effectively used and enjoyed in the United Kingdom,

the supply is to be treated to that extent as made in the United Kingdom.”.

4. In Part 3 (exceptions relating to supplies not made to relevant business person) of Schedule 4A to the Value Added Tax Act 1994, in sub-paragraph (2)(b) of paragraph 15 (electronically supplied, telecommunication and broadcasting services) for “paragraph 8(2)” substitute “paragraph 9E(2)”.

Consequential amendments to the Value Added Tax Act 1994

5. In section 47(6) (agents etc.) of the Value Added Tax Act 1994(3) for “paragraph 8(2)” substitute “paragraph 9E(2)”.

6. In paragraph 3(2) (qualifying supplies) in Part 1 (non-union scheme: registration) of Schedule 3B (electronic, telecommunication and broadcasting services: non-union scheme) to the Value Added Tax Act 1994(4) for “paragraph 8(2)” substitute “paragraph 9E(2)”.

7. In paragraph 2(2) (meaning of “scheme services”) in Part 1 (introduction) of Schedule 3BA (electronic, telecommunication and broadcasting services: union scheme) to the Value Added Tax Act 1994(5) for “paragraph 8(2)” substitute “paragraph 9E(2)”.

(3) Section 47(6) was inserted by section 106 of the Finance Act 2014 (c. 26).

(4) Schedule 3B was inserted by section 23 of, and paragraphs 1 and 4 of Schedule 2 to, the Finance Act 2003 (c. 14); relevant amendments have been made by paragraphs 3 to 10 of Schedule 22 to the Finance Act 2014.

(5) Schedule 3BA was inserted by paragraph 1 of Schedule 22 to the Finance Act 2014.

Consequential amendment to the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2016

8. In article 4(2) of the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2016(6) for “8(2)” substitute “9E(2)”.

At 9.00 a.m. on 20th July 2017

Heather Wheeler
Mark Spencer
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Parts 1 (general exceptions), 2 (exceptions relating to supplies made to relevant business person) and 3 (exceptions relating to supplies not made to relevant business person) of Schedule 4A (place of supply of services: special rules) to the Value Added Tax 1994 (c. 23) (“the Act”) in relation to supplies of telecommunication services and also makes some necessary consequential amendments to other provisions of the Act.

Section 7A of the Act specifies the general rules for determining the place of supply of services for the purposes of UK value added tax. The general rules set out in section 7A(2) are that, where the supply is made to a private (non-business) customer, the place of supply is treated as the country where the supplier belongs but, where it is made to a business customer, it is treated as the country where the customer belongs. However, section 7A(2) has effect subject to any override in Schedule 4A to the Act (“Schedule 4A”) which provides for exceptions to the general rules in specified circumstances.

The effect of the Order is that, where telecommunication services are supplied to a person other than a ‘relevant business person’ as defined in section 7A(4) of the Act (for example, a private consumer), that supply will be subject to the place of supply rules set out in paragraph 15 (electronically supplied, telecommunication and broadcasting services) of Part 3 of Schedule 4A. The special ‘use and enjoyment’ provisions that were provided for in paragraph 8 (telecommunication and broadcasting services) of Part 1 of Schedule 4A will only apply where such supplies are made to a relevant business person by virtue of the new paragraph 9E (telecommunication services) inserted into Part 2 of Schedule 4A.

The current ‘use and enjoyment’ provisions in relation to supplies of radio and television broadcasting services set out in paragraph 8 (now limited to broadcasting services) of Part 1 of Schedule 4A will remain unchanged.

Article 2 removes references to telecommunication services from paragraph 8 in Part 1 of Schedule 4A.

Article 3 inserts a new paragraph 9E into Part 2 of Schedule 4A to provide for an exception to the general rules in the case of a supply of telecommunication services made to a relevant business person.

Article 4 makes a consequential amendment to paragraph 15 of Part 3 of Schedule 4A.

Articles 5 to 8 make consequential amendments to other provisions that cross refer to the definition of ‘telecommunication services’ in Schedule 4A.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.