



STATUTORY INSTRUMENTS.

S.I. No. 266 of 2012

VALUE-ADDED TAX (REFUND OF TAX)(TOURING COACHES)
ORDER 2012

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I, Michael Noonan, Minister for Finance, in exercise of the powers conferred on me by section 103 (as amended by section 85(e) of the Finance Act 2012 (No. 9 of 2012)) of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010), and having regard to the purposes of subsection (2A) of that section, hereby order as follows:

1. This Order may be cited as the Value-Added Tax (Refund of Tax) (Touring Coaches) Order 2012.

2. In this Order—

“Act” means Value-Added Tax Consolidation Act 2010 (No. 31 of 2010);

“qualifying person” means a person who is established in the State and who—

- (a) is engaged in the business of carriage for reward of tourists by road under contracts for group transport, and
- (b) has complied with all the obligations imposed on the person by the Act, the Income Tax Acts, the Corporation Tax Acts or the Capital Gains Tax Acts, and any instruments made under those Acts, in relation to—
 - (i) the payment or remittance of taxes, interest and penalties required to be paid or remitted, and
 - (ii) the delivery of returns;

“qualifying vehicle” means—

- (a) a single-deck touring coach having dimensions as designated by the manufacturer of not less than 2,700 millimetres in height, not less than 8,000 millimetres in length, not less than 775 millimetres in floor height and with an underfloor luggage capacity of not less than 3 cubic metres, or
- (b) a double-deck touring coach having dimensions as designated by the manufacturer of not more than 4,300 millimetres in height and not less than 10,000 millimetres in length.

3. (1) Unless paragraph (2) is applied, a qualifying person who has borne or paid tax on—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 27th July, 2012.*

- (a) the supply to such person,
- (b) the intra-Community acquisition or importation, or
- (c) the hiring or leasing,

of a qualifying vehicle which is for use (for a period of not less than one year where subparagraph (a) or (b) apply, and for a period of not less than 6 consecutive months where subparagraph (c) applies), by such person in the State in the business of the carriage for reward of tourists by road under contracts for group transport shall, subject to the conditions specified in Article 4, be repaid the full tax borne or paid provided that—

- (i) the supply, intra-Community acquisition or importation of the vehicle which gave rise to the tax occurred when the vehicle was not more than 2 years old, or
- (ii) the hiring or leasing of the vehicle which gave rise to the tax was on the basis of a contract for hire or lease first entered into when the vehicle was not more than 2 years old.

(2) A qualifying person who is an accountable person in respect of the tax chargeable on—

- (a) the intra-Community acquisition of a qualifying vehicle, or
- (b) the hire or lease of a qualifying vehicle from a supplier established outside the State,

may, in lieu of claiming repayment under paragraph (1), elect to deduct the tax chargeable in respect of that acquisition in the return which that person is obliged to furnish, concerning that acquisition, in accordance with section 76 or 77 of the Act but any amount of tax deducted in accordance with this paragraph shall be deemed for the purposes of Article 6 of this Order, to be tax refunded.

(3) This Article applies only where—

- (a) the supply, hire, lease, intra-Community acquisition or importation, as the case may be, referred to in paragraph (1) or (2) occurred on or after the date on which this Order is made, and
- (b) the qualifying person is not entitled to a deduction or repayment—
 - (i) by any other provision of the Act or regulations made under the Act, or
 - (ii) under any other enactment administered by the Revenue Commissioners,

of any portion of the tax paid or payable in respect of the qualifying vehicle.

4. The conditions to be fulfilled by a person in order to obtain a repayment of tax under this Order in accordance with Article 3(1) are that the person shall:

- (a) complete such form as is provided for that purpose by the Revenue Commissioners, and shall certify the particulars shown on such form to be correct;
- (b) establish to the satisfaction of the Revenue Commissioners that that person is a qualifying person;
- (c) produce—
 - (i) in the case of a supply to that person of a qualifying vehicle, an invoice, issued to that person in accordance with section 66 of the Act, establishing the amount of tax borne by that person on that supply,
 - (ii) in the case of the hire or lease of a qualifying vehicle, a copy of the hiring agreement or leasing agreement, as may be appropriate, and, in respect of each repayment claim, an invoice, issued to that person in accordance with section 66 establishing the amount of tax borne by that person,
 - (iii) in the case of an intra-Community acquisition of a qualifying vehicle, an official receipt or other document establishing the amount of tax paid by that person in respect of the intra-Community acquisition, together with the invoice issued to that person by the supplier, or
 - (iv) in the case of an importation of a qualifying vehicle, an official receipt or other document establishing the amount of tax paid by that person on the importation and indicating the number of the relevant customs entry.

5. This Order does not apply to vehicles used, or intended to be used, primarily for the provision of transport services other than transport services consisting of carriage for reward of tourists by road under contracts for group transport.

6. (1) In this Article—

“review period” means—

- (a) in the case of the supply to a person or the intra-Community acquisition or importation of a qualifying vehicle in respect of which tax was refunded under Article 3, a period of one year commencing on the date of that supply, intra-Community acquisition or importation,
- (b) in the case of the hiring or leasing of a qualifying vehicle in respect of which tax was refunded under Article 3, a period of 6 consecutive months from the date of commencement of the contract for the hire or lease of that qualifying vehicle;

“review date” means the 28th day following the last day of the review period.

(2) A person who obtains a refund of tax under this Order shall, on or before the review date, carry out a review to establish whether the conditions specified in the Order have been fulfilled and where—

- (a) in the case of a supply to that person, importation or intra-Community acquisition, the vehicle has not been retained for use in his or her business for a minimum period of one year,
- (b) in the case of the hiring or leasing of a vehicle, the vehicle has not been retained for use in his or her business for a period of 6 consecutive months, or
- (c) during the review period the vehicle has been used primarily for the provision of transport services other than transport services consisting of carriage for reward of tourists by road under contracts for group transport,

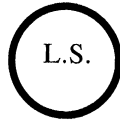
that person shall be liable to repay the full amount of the tax refunded under this Order in respect of that vehicle and shall be liable to any interest due in accordance with section 114A (inserted by section 92 of the Finance Act 2012) of the Act.

(3) A person who is liable to repay the tax in accordance with paragraph (2) shall be liable to a penalty in accordance with section 115(7B) (inserted by section 93 of the Finance Act 2012) of the Act unless, on or before the 28th day following the review date—

- (a) that person has notified the Revenue Commissioners in writing that—
 - (i) in the case of a supply to that person, importation or intra-Community acquisition the vehicle has not been retained for use in the business for a minimum period of one year,
 - (ii) in the case of the hiring or leasing of a vehicle, the vehicle has not been retained for use in the business for a period of 6 consecutive months, or
 - (iii) the vehicle has been used primarily for the provision of transport services other than transport services consisting of carriage for reward of tourists by road under contracts for group transport,
- (b) the full amount of the tax refunded under this Order in respect of that vehicle has been repaid to the Revenue Commissioners, and
- (c) the interest due, in accordance with section 114A of the Act, on the tax repayable to the Revenue Commissioners under paragraph (2) has been paid.

7. The following are revoked:

- (a) the Value-Added Tax (Refund of Tax) (No. 28) Order 1996 (S.I. No. 98 of 1996),
- (b) the Value-Added Tax (Refund of Tax) (Amendment Order) 1999 (S.I. No. 305 of 1999), and
- (c) the Value-Added Tax (Refund of Tax) (Amendment Order) 2004 (S.I. No. 573 of 2004).



GIVEN under my Official Seal,
25 July 2012.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Statutory Instrument and does not purport to be a legal interpretation.)

This Order replaces S.I. No. 98 of 1996 and subsequent amendments to that Order. It retains the scheme provided for in that Order which provides for the refund to exempt coach operators, subject to certain conditions, of VAT paid on touring coaches of certain age and dimension. This Order includes additional measures that provide for the repayment by the coach operator of the VAT refunded where conditions of the Order have not been fulfilled and for interest and a penalty to apply in certain circumstances.

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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
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(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
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€2.54

ISBN 978-1-4064-9813-4



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