

**Certain hire purchase transactions excluded from the VAT rate anti-forestalling provisions  
*SI 2009/3127***

The Treasury has made an Order excluding certain hire purchase (HP) agreements and other similar transactions from the scope of the 'supplementary charge'. This could affect transactions, for example, where the documentation relating to the sale of a new car or other goods is completed in December 2009 - but the delivery of the goods does not take place until 2010. All businesses supplying goods on HP terms, as well as finance companies operating in the HP sector, should be aware of this development.

The effect of [SI 2009/3127](#), published on the OPSI website along with the [Explanatory Memorandum](#), is that there will be no supplementary charge (normally, this would be 2.5% of the net sale value) on a supply of goods on HP or similar terms provided that:

- (a) the only condition which is met that would normally trigger the supplementary charge is that full payment of the amount shown on the VAT invoice for the supply is not due before the end of the period of 6 months beginning with the date on which the VAT invoice is issued (this would be the position for any sale on HP terms extending over a term exceeding six months);
- (b) the VAT invoice for the supply:
  - (i) relates to a supply of goods made under a hire-purchase, conditional sale or credit sale agreement,
  - (ii) forms part of that agreement, and
  - (iii) is issued in accordance with normal commercial practice in relation to a supply made under such an agreement; and
- (c) the basic time of supply of the goods (s 6(2) VAT Act 1994, normally the date when the goods are removed by, or made available to, the customer) is intended and expected to be within six months of the date of the VAT invoice which relates to the supply.

"Normal commercial practice" means the normal commercial practice of the supplier at a time when an increase in the rate of VAT in force is not expected. In practical terms, if

- it is normal commercial practice for HP agreements to be completed in advance of delivery of the goods; and
- the VAT invoice is normally issued when the HP agreement is completed; and
- the VAT invoice is issued prior to 1 January 2010 with VAT at 15%; and

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- it is expected that the goods will be delivered within six months of the date of the VAT invoice; and
- none of the other conditions which trigger the supplementary charge (connected parties, aggregate value of supplies to the same recipient exceeding £100k or funding of an advance payment by the supplier) is satisfied,

then the 'supplementary charge' should not apply.

### ***Comment***

*It is important to ensure that businesses can demonstrate that the completion (in advance) of HP agreements, including the issue of the VAT invoice, is part of "normal commercial practice". This could be by reference to:*

- *similar transactions entered into when there was no potential impact of a change in VAT rate; or*
- *'industry norms', although there is no guarantee that HMRC might not seek to challenge where a particular business applies such an 'industry norm' and cannot be shown to have applied it before now.*

*This development is of particular relevance to businesses in the automotive sector; retailers selling high value goods (e.g. furniture and electrical goods) and finance companies.*

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