

**EXPLANATORY MEMORANDUM TO THE
VALUE ADDED TAX (AMENDMENT) (No. 3) REGULATIONS 2004
2004 No. 1675**

- 1.** This explanatory memorandum has been prepared by the Commissioners of Customs and Excise and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 The instrument develops the existing provisions for electronic VAT returns and payments, and introduces provisions for related business incentives to replace those it revokes.

2.2 The instrument also introduces provisions for electronic notifications relating to VAT registration.

3. Matters of special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Businesses have long had to notify VAT registrability and subsequent changes to their registration details using paper forms or written communications under what is now regulation 5 of the VAT Regulations 1995 (S.I. 1995/2518). The Finance Act 1999 sections 132 and 133 and the Finance Act 2000 section 143 and Schedule 38 provide additional powers for regulations to facilitate electronic communications for such things, and to provide related incentives.

4.2 Accordingly regulation 2(2) introduces provisions to enable electronic notification of VAT registrability and to enable alternative electronic means of notifying changes to registration details. The provisions mirror the long-standing provisions for electronic VAT returns and therefore depend on HM Customs and Excise specifying acceptable electronic systems.

4.3 Regulation 4 expands the long-standing provisions for electronic VAT returns so that Customs may specify systems involving intermediaries delivering the returns and systems that do not merely reproduce an electronic version of the existing paper system.

4.4 Regulations 4(5) and 5 enable Customs to allow extra time for paying VAT due, and for making VAT returns, depending on the electronic means of payment used.

4.5 Regulation 6 takes the opportunity to update the standard paper VAT returns. Regulations 2(1) and 3 respectively do likewise to align an existing omission with long-standing practice and to correct a long-standing typographical error (notification procedure for and liabilities following transfer of going concern). Regulation 1(2) revokes the Value Added Tax (Electronic Communications) (Incentives) Regulations 2001 (S.I. 2001/759) which relate to incentives that are no longer provided.

EU legislation

4.6 Electronic notification of registrability, electronic VAT returns and electronic payments are respectively covered by Articles 22.1, 22.4 and 22.5 of the Sixth Council Directive of 17th May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – common system of value added tax: uniform basis of assessment (OJ No L 145, 13.6.77, p 1).

4.7 The relevant amendments are as follows.

(1) Article 2 of Council Directive 2002/38/EC of 7th May 2002 amending and amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services (OJ No L 128, 15.5.02, p 43). The brief scrutiny history is:

- (a) Explanatory Memorandum submitted to the Committees – 13/7/2000
- (b) European Scrutiny Committee, House of Commons Report – 19/7/2000, not cleared, further information requested
- (c) Select Committee of the European Union, House of Lords, letter from Lord Brabazon – 11/10/2000, not cleared, more information needed
- (d) Explanatory Memorandum and letters submitted to the Committees – 7/2/2002
- (e) Scrutiny reserve lifted by Paymaster General – 7/2/2004
- (f) European Scrutiny Committee, House of Commons Report – 13/2/2002, cleared, further information requested
- (g) Letter from Select Committee of the European Union, House of Lords – Lord Brabazon – 26/2/2002 and 5/3/2002
- (h) Regulatory Impact Assessment submitted to the Committees – 18/7/ 2002.

(2) Article 1 of Council Directive 91/680/EEC of 16th December 1991 supplementing the common system of value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers (OJ No L376, 31.12.91, p 1). The brief scrutiny history is:

- (a) Proposal for the directive cleared by House of Commons – 6/12/1992
- (b) Proposal for the directive cleared by the House of Lords – 11/11/1992.

5. Extent

This instrument applies to all of the United Kingdom.

6. Policy background

6.1 The purpose of the regulations is to enhance and expand the range of electronic (e) services that Customs offer businesses in order to provide choice about the medium they use to comply with their main VAT obligations.

6.2 The changes aim to improve business satisfaction levels with Customs' services, offer alternative ways to transact and encourage businesses to use electronic methods when doing so. VAT is one of the 31 key services that have been made a priority within the wider e-Government Delivery Programme and these changes form part of the government's wider strategy for an e-enabled society.

6.3 The revocation of the 2001 Incentive Regulations recognises that the former, one-off payment of £50 to those using electronic VAT returns was not an effective incentive. Such incentives are not a current feature of Customs' strategy for the take-up of eVAT services.

7. Impact

7.1 A Regulatory Impact Assessment is attached to this memorandum.

7.2 The impact on the public sector is to contribute to the overall efficiencies identified from the provision of electronic services.

8. Contact

For registration issues, Peter Bennet at HM Customs and Excise Tel: 020 7865 5838 or e-mail: peter.b@hmce.gsi.gov.uk can answer any queries regarding the instrument.

For returns and payment issues, Tina McDonnell at HM Customs and Excise Tel: 0151 703 8628 or e-mail tina.mcdonnell@hmce.gsi.gov.uk can answer such queries.