

2019 No. 404

EXITING THE EUROPEAN UNION

VALUE ADDED TAX

**The Value Added Tax (Place of Supply of Services) (Supplies of
Electronic, Telecommunication and Broadcasting Services)
(Amendment and Revocation) (EU Exit) Order 2019**

Approved by the House of Commons

Made - - - - 28th February 2019

Laid before House of Commons 1st March 2019

Coming into force in accordance with article 2

The Treasury make this Order in exercise of the powers conferred by section 7A(6)(b) of the Value Added Tax Act 1994(a) and section 52(2) of the Taxation (Cross-border) Trade Act 2018(b).

In accordance with section 52(2) of the Taxation (Cross-border) Trade Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, for the following Order to come into force on such day as the Treasury may by regulations under section 52 of that Act appoint.

Citation and commencement

1. This Order may be cited as the Value Added Tax (Place of Supply of Services) (Supplies of Electronic, Telecommunication and Broadcasting Services) (Amendment and Revocation) (EU Exit) Order 2019.

2. This Order comes into force on such day as the Treasury may by regulations under section 52 of the Taxation (Cross-border Trade) Act 2018 appoint.

(a) 1994 c. 23; section 7A was inserted by paragraph 4 of Schedule 36 to the Finance Act 2009 (c. 10) and amended by paragraphs 1 and 8 of Part 1 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (“TCTA”) (c. 22). Under section 57(3) of the TCTA that amendment will come into force on such day as the Treasury may by regulations appoint. No such regulations have been made at the time this Order is made.

(b) 2018 c. 22.

Amendments to Part 3 of Schedule 4A to the Value Added Tax Act 1994

3.—(1) In Part 3 of Schedule 4A to the Value Added Tax Act 1994^(a) (exceptions relating to supplies not made to relevant business person), paragraph 15 (electronically supplied, telecommunication and broadcasting services) is amended as follows.

(2) In sub-paragraph (1) omit the words “sub-paragraph (3) and”.

(3) Omit subparagraphs (3) to (7).

Revocation of the Value Added Tax (Place of Supply of Services) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018

4. The Value Added Tax (Place of Supply of Services) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018^(b) is revoked.

Rebecca Harris

Jeremy Quin

28th February 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

^(a) Schedule 4A was both inserted and amended from a later date by Schedule 36 to the Finance Act 2009; see paragraphs 11, 15 and 17 of Schedule 36. Relevant amending instruments are S.I.s 2017/778 and 2018/1194.

^(b) S.I. 2018/1194.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made in exercise of the powers in 7A(6)(b) of the Value Added Tax Act 1994 and section 52 of the Taxation (Cross-border Trade) Act 2018 (c. 22) in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union. It is to come into force on such day as the Treasury by regulations appoint.

This Order is made to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Article 3 amends paragraph 15 of Part 3 of Schedule 4A to the Value Added Tax Act 1994. Paragraph 15 provides a special rule (“the special rule”) to determine the place of supply of electronically supplied services, telecommunication and broadcasting services to a person who is not a relevant business person. It also provides an exception (“the exception”) to the special rule where the supplier is established in only one member state of the EU and makes supplies below a specified value. Article 3 removes the exception to the special rule

Article 4 revokes the Value Added Tax (Place of Supply of Services) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018 (S.I. 2018/1194) which introduced the exception to the special rule.

An Impact Assessment has not been prepared for this instrument because it reverses legislation that will be otiose when the UK leaves the EU and VAT MOSS legislation is withdrawn.

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