
STATUTORY INSTRUMENTS

2019 No. 513

**EXITING THE EUROPEAN UNION
VALUE ADDED TAX
CUSTOMS**

**The Value Added Tax (Miscellaneous Amendments, Revocation
and Transitional Provisions) (EU Exit) Regulations 2019**

Made - - - - 7th March 2019
Laid before the House of
Commons - - - - 8th March 2019
Coming into force in accordance with regulation 1

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 16A(1), (2)(b) and (4) of the Value Added Tax Act 1994 ^{M1} and section 52(2) of the Taxation (Cross-border Trade) Act 2018 ^{M2}, and the Treasury, in exercise of the powers conferred by sections 51(1)(a), 52(2) and (5) and 56(1) and (4) of the Taxation (Cross-border Trade) Act 2018 ^{M3}, make the following regulations.

The Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, to make provision in relation to value added tax and to make provision, including transitional provision, in consequence of the Taxation (Cross-border Trade) Act 2018.

In accordance with section 52(2) of that Act, the Commissioners and 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 Regulations to come into force on such day or days as the Treasury may by regulations under that section appoint.

Marginal Citations

M1 1994 c. 23 (“the Act”). Section 96(1) of the Act defines “the Commissioners” as meaning “the Commissioners of Customs and Excise” and “regulations” as meaning regulations made by the Commissioners under the Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), [section 50\(1\)](#) of which provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs. Section 16A was inserted by section 43 of,

and paragraphs 1 and 14 of Schedule 8 to, the [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#) and commenced by [S.I. 2018/1362](#).

M2 [2018 c. 22](#).

M3 [Section 51\(1\)\(a\)](#) of the [Taxation \(Cross-border Trade\) Act 2018](#) permits “the appropriate Minister” to make such provision relating to value added tax as the appropriate Minister considers appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU and under [section 51\(4\)\(b\)](#) “the appropriate Minister” means the Treasury. [Section 56\(1\)](#) and (4) of the Act permits “the appropriate Minister” to make such provision as the appropriate Minister considers appropriate in consequence of the Act, and to make such transitional, transitory or saving provision as “the appropriate Minister” considers appropriate in connection with the coming into force of any provision of the Act, and under [section 56\(5\)](#) “the appropriate Minister” means the Treasury.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 and come into force on such day or days as the Treasury may by regulations under [section 52](#) of the [Taxation \(Cross-border Trade\) Act 2018](#) appoint.

Commencement Information

- I1** Reg. 1 not in force at made date, see [reg. 1](#)
I2 [Reg. 1](#) in force at 31.12.2020 by [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)

PART 2

Amendment of secondary legislation relating to value added tax and transitional provisions

Amendment of the Value Added Tax Regulations 1995

2. The Value Added Tax Regulations 1995^{M4} are amended as follows.

Commencement Information

- I3** Reg. 2 not in force at made date, see [reg. 1](#)
I4 [Reg. 2](#) in force at 31.1.2020 for specified purposes by [S.I. 2020/87](#), [regs. 2\(b\)](#), 3
I5 [Reg. 2](#) in force at 31.12.2020 in so far as not already in force by [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)

Marginal Citations

- M4** [S.I. 1995/2518](#); see footnotes below for relevant amending instruments.

^{F13}

F1 Reg. 3 omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments, Northern Ireland Protocol and Savings and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1545\)](#), regs. 1, **107(2)** (with regs. 109-131); S.I. 2020/1641, reg. 2, Sch.

4.—(1) Part 14 (input tax and partial exemption) is amended as follows.

(2) In regulation 102 (use of other methods) ^{M5}, after paragraph (2) insert—

“(2A) Notwithstanding any provision of any method approved or directed to be used under this regulation which purports to have the contrary effect, where the method attributes input tax to exempt supplies specified by the Treasury in an order made under section 26(2) (c) of the Act, no attribution is to be made in relation to any supplies that are made within the United Kingdom unless—

- (a) the supply is directly linked to the export of goods and the recipient of the goods is located outside both the United Kingdom and the EU, or
- (b) the supply is between a United Kingdom based intermediary and a United Kingdom based service provider and the recipient of any supply being arranged by the intermediary is located outside both the United Kingdom and the EU.”.

(3) In regulation 103B (attribution of input tax incurred on services and related goods used to make financial supplies) ^{M6}, in paragraph (3)(a), for “another” substitute “a”.

Commencement Information

I6 Reg. 4 not in force at made date, see [reg. 1](#)

I7 [Reg. 4\(1\)\(2\)](#) in force at 31.1.2020 by [S.I. 2020/87](#), [regs. 2\(a\), 3](#)

I8 [Reg. 4\(3\)](#) in force at 31.12.2020 by [S.I. 2020/1641](#), [reg. 2, Sch.](#)

Marginal Citations

M5 [Regulation 102](#) was amended by [S.I. 2005/762](#), [2007/768](#), [2009/820](#), [2010/559](#) and [2015/1978](#).

M6 [Regulation 103B](#) was amended by [S.I. 2004/3140](#) and [2009/820](#).

5.—(1) Part 16 (importations, exportations and removals) ^{M7} is amended as follows.

(2) In regulation 117 (interpretation of Part 16)—

- (a) in paragraph (8), for “member States” substitute “ United Kingdom ” in both places it occurs;
- (b) omit paragraphs (10) and (11).

(3) In regulation 118 (enactments excepted)—

- (a) in paragraph (c)—
 - (i) omit sub-paragraph (i);
 - (ii) omit sub-paragraph (ii);

^{F2}(b)

^{F3}(4)

(5) Omit regulation 120 (community legislation excepted).

(6) In regulation 121 (adaptations) omit paragraph (2).

(7) For regulation 121A substitute—

“**121A.** In the Customs (Import Duty) (EU Exit) Regulations 2018^{M8}, Part 10 (guarantees), in regulation 98(1), regard there being a third sub-paragraph as follows—

“(c) in relation to the VAT chargeable on the importation of goods into the United Kingdom, the specified amount may be nil where in the opinion of an HMRC officer there is no risk to the payment.””

- (8) Omit regulations 121B and 121C.
- (9) Omit regulation 123.
- (10) For regulation 126 substitute—

“**126.** Subject to such conditions as the Commissioners may impose, VAT chargeable on the importation of goods which have been temporarily exported and are re-imported after having undergone repair, process or adaptation outside the United Kingdom, or after having been made up or reworked outside the United Kingdom, shall be payable as if such treatment or process had been carried out in the United Kingdom, if the Commissioners are satisfied that—

- (a) at the time of exportation the goods were intended to be re-imported after completion of the treatment or process outside the United Kingdom, and
- (b) the ownership in the goods was not transferred to any other person at exportation or during the time they were abroad.”.

- (11) In regulation 128, for “member States” substitute “ United Kingdom ”.
- (12) In regulation 129(1)(a) and (b), in both places it occurs, for “member States” substitute “ United Kingdom ”.
- (13) In regulation 132, for “member States” substitute “ United Kingdom ” in both places it occurs.
- (14) In regulation 133, for “member States” substitute “ United Kingdom ” in both places it occurs.
- (15) Omit regulations 134 to 145.

F2 Reg. 5(3)(b) omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments, Northern Ireland Protocol and Savings and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1545\)](#), regs. 1, **107(2)** (with regs. 109-131); S.I. 2020/1641, reg. 2, Sch.

F3 Reg. 5(4) omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments, Northern Ireland Protocol and Savings and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1545\)](#), regs. 1, **107(2)** (with regs. 109-131); S.I. 2020/1641, reg. 2, Sch.

Commencement Information

I9 Reg. 5 not in force at made date, see reg. 1

I10 Reg. 5 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, Sch.

Marginal Citations

M7 Part 16 was amended by [S.I. 1995/3147](#), 1996/210, 1999/438, 2000/258, 2000/634, 2001/630, 2003/1485, 2003/2318, 2004/1082, 2006/587, 2006/3292, 2011/1043, 2013/2241, 2013/3211 and 2019/60. The amendments made by [S.I. 2019/60](#) are not yet in force.

M8 [S.I. 2018/1248](#), amended by [S.I. 2019/326](#) and 2019/486.

Transitional provisions in relation to the Value Added Tax Regulations 1995

^{F4}6.

F4 Reg. 6 omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous Amendments and Transitional Provisions\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/1214), regs. 1, **3(2)**; S.I. 2020/1641, reg. 2, Sch.

Amendment of the Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012

F57.

F5 Reg. 7 omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020](#) (c. 26), s. 11(1)(e), **Sch. 2 para. 13** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, **reg. 9**

Amendment of the Value Added Tax (Postal Packets and Amendment) (EU Exit) Regulations 2018

F68.

F6 Reg. 8 omitted (31.12.2020) by virtue of [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1495), regs. 1(2), **22(2)**; S.I. 2020/1641, reg. 2, Sch.

General transitional provision in relation to value added tax and power to make further provision

9.—(1) The amendments made in relation to value added tax by any regulations made by the appropriate Minister under the Taxation (Cross-border Trade) Act 2018, or by statutory instrument under any other enactment in consequence of, or otherwise in connection with, the United Kingdom's withdrawal from the EU, do not have effect in relation to supplies made, and acquisitions taking place, before [^{F7}IP completion day].

(2) In determining for the purposes of this regulation the time when a supply or acquisition of goods is made ignore sections 18(4)(a) and 18B(4) of the Value Added Tax Act 1994 ^{M9}.

(3) In determining for the purposes of this regulation the time when a supply of services is made—

- (a) invoices and other documents provided to any person before [^{F7}IP completion day] are to be disregarded,
- (b) so much (if any) of any payment received by the supplier before [^{F7}IP completion day] as relates to times on or after [^{F7}IP completion day] is to be treated as received on [^{F7}IP completion day], and
- (c) so much (if any) of any payment received by the supplier on or after [^{F7}IP completion day] as relates to times before [^{F7}IP completion day] is to be treated as received before [^{F7}IP completion day].

(4) A payment in respect of any services is to be taken for the purposes of paragraph (3) to relate to the time of the performance of those services.

(5) But where a payment is received in respect of any services the performance of which takes place over a period, a part of which falls before [^{F7}IP completion day] and a part of which does not—

- (a) an apportionment is to be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before [^{F7}IP completion day],
- (b) the payment is to that extent to be taken for the purposes of paragraph (3) to relate to a time before [^{F7}IP completion day], and
- (c) the remainder, if any, of the payment is to be taken for the purposes of paragraph (3) to relate to times on or after [^{F7}IP completion day].

F7 Words in reg. 9 substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1495\)](#), regs. 1(2), **22(3)**; S.I. 2020/1641, reg. 2, Sch.

Commencement Information

- I11** Reg. 9 not in force at made date, see reg. 1
- I12** Reg. 9 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, Sch.

Marginal Citations

M9 Section 18B was inserted by paragraph 5 of Schedule 3 to the [Finance Act 1996 \(c. 8\)](#). Sections 18(4) (a) and 18B(4) were amended by paragraphs 16 and 18 of Schedule 8 to the [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#). Under section 57(3) of that Act those amendments will come into force on such day as the Treasury may by regulations appoint. No such regulations have been made at the time these Regulations are made.

[^{F8}**10**. The amendments made in relation to value added tax by any regulations made by the appropriate Minister under the Taxation (Cross-border Trade) Act 2018, or by statutory instrument under any other enactment in consequence of, or otherwise in connection with, the United Kingdom's withdrawal from the EU, do not have effect in relation to a supply of goods dispatched or transported from the territory of the United Kingdom to the territory of a member State of the EU, or vice versa, provided that the dispatch or transport started before IP completion day and ended thereafter.]

F8 Reg. 10 substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous and Transitional Provisions, Amendment and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1495\)](#), regs. 1(2), **22(4)**; S.I. 2020/1641, reg. 2, Sch.

Commencement Information

- I13** Reg. 10 not in force at made date, see reg. 1
- I14** Reg. 10 in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, Sch.

11. Her Majesty's Revenue and Customs^{M10} may make additional provision to deal with specific transitional issues that arise as a result of the amendments made in relation to value added tax by any regulations made by the appropriate Minister under the Taxation (Cross-border Trade) Act 2018, or under any other enactment in consequence of, or otherwise in connection with, the United Kingdom's withdrawal from the EU, in a public notice published by them.

Commencement Information

- I15** Reg. 11 not in force at made date, see [reg. 1](#)
- I16** [Reg. 11](#) in force at 31.12.2020 by [S.I. 2020/1641](#), reg. 2, Sch.

Marginal Citations

M10 Schedule 1 to the Interpretation Act 1978 (c. 30) provides that “Her Majesty's Revenue and Customs” has the meaning given by section 4 of the Commissioners for Revenue and Customs Act 2005 (c. 11).

F⁹PART 3

Amendment of the Fulfilment Businesses Regulations 2018 and transitional provisions for legislation relating to fulfilment businesses

F9 Pt. 3 omitted (31.12.2020) by virtue of The Value Added Tax (Miscellaneous Amendments and Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/1214), regs. 1, **3(3)**; S.I. 2020/1641, reg. 2, Sch.

Amendment of the Fulfilment Businesses Regulations 2018

12.

Transitional provision in relation to regulation 4 of the Fulfilment Businesses Regulations 2018

13.

Transitional provision in relation to sections 53 to 55 of, and Schedule 13 to, the Finance (No. 2) Act 2017

14.

F¹⁰PART 4

Administrative provision for the purposes of import VAT: transitional authorised declarants and supplementary customs declarations

F10 Pt. 4 omitted (31.12.2020) by virtue of The Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1495), regs. 1(2), **22(5)**; S.I. 2020/1641, reg. 2, Sch.

15.

PART 5

Revocation

16. The Value Added Tax (Special Accounting Schemes) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018 ^{M11} is revoked, so far as not already revoked.

Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019. (See end of Document for details)

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Commencement Information

I17 Reg. 16 not in force at made date, see [reg. 1](#)

I18 [Reg. 16](#) in force at 31.12.2020 by [S.I. 2020/1641](#), [reg. 2](#), [Sch.](#)

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Marginal Citations

M11 [S.I. 2018/1197](#).

Justin Holliday
Melissa Tatton
Two of the Commissioners for Her Majesty's
Revenue and Customs

Paul Maynard
Jeremy Quin
Two of the Lord Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in sections 51(1)(a), 52(2) and (5) and 56(1) and (4) of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA”) and section 16A(1), (2) (b) and (4) of the Value Added Tax Act 1994 (c. 23) (“VATA”) in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.

Under regulation 1 the Regulations are to come into force on such day or days as the Treasury may appoint.

Part 2 makes consequential amendments to secondary legislation relating to value added tax (“VAT”) in line with changes made by the European Union (Withdrawal) Act 2018 (c. 16) and TCTA. It also makes a number of transitional provisions to deal with some of the issues that will arise when amendments are made to secondary legislation relating to VAT in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.

Regulation 3 omits Part 4B (provision of information relating to arrivals and dispatches) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the principal VAT Regulations”).

Regulation 4 restricts the attribution that can be made where a taxpayer uses a partial exemption method approved or directed under paragraph (1) of regulation 102 (use of other methods) of the principal VAT Regulations, to attribute input tax to exempt supplies specified by the Treasury in an order made under section 26(2)(c) VATA, to ensure that there can be no attribution in relation to any supplies that are made within the UK except in the two circumstances specified.

It also amends the definition of “relevant supply” in paragraph (3)(a) of regulation 103B (attribution of input tax incurred on services and related goods used to make financial supplies) of the principal VAT Regulations to replace “another member State” with “a member State”.

Regulation 5 amends Part 16 of the principal VAT Regulations in consequence of amendments made to VATA by TCTA and new customs legislation made under TCTA.

Regulation 6 makes transitional provision in relation to Part 20 (repayments to Community traders) of the principal VAT Regulations.

Regulation 7 amends the Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012 to remove references to “other member States” and “acquisitions”.

Regulation 8 amends regulation 6 of the Value Added Tax (Postal Packets and Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1376) (“the 2018 Regulations”) to make provision in relation to the joint and several liability with the supplier of certain recipients of postal packets for a time limited period. The amendment in regulation 8(3) is made in response to an inconsistency reported by the SCSi in relation to regulation 6(2) of the 2018 Regulations.

Regulations 9 to 11 make similar transitional provisions in relation to secondary legislation as the Taxation (Cross-border Trade) Act 2018 (Value Added Tax Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/105) make in relation to amendments to primary VAT law in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.

Part 3 makes consequential amendments to the Fulfilment Businesses Regulations 2018 (S.I. 2018/326) in line with changes made by the TCTA to Part 3 of the Finance (No. 2) Act 2017 (c. 32). It also makes transitional provisions in relation to secondary and primary legislation relating to fulfilment businesses.

Part 4 confers a power on HMRC to make such provision by public notice for or in connection with the administration of import VAT as they consider appropriate (subject to some express restrictions) in consequence of regulation 33(2A) or (2B) of the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248), as inserted by the Taxation (Cross-border Trade) (Miscellaneous Provisions) (EU Exit) Regulations 2019 [(S.I. 2019/xx)].

Changes to legislation: *There are currently no known outstanding effects for the The Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019. (See end of Document for details)*

Part 5 revokes the Value Added Tax (Special Accounting Schemes) (Supplies of Electronic, Telecommunication and Broadcasting Services) Order 2018 (S.I. 2018/1197). This instrument will be covered by an overarching HMRC impact assessment (third edition) which will be published and available on the website at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.

Changes to legislation:

There are currently no known outstanding effects for the The Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019.