

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (AMENDMENT) REGULATIONS 2008**

2008 No. 556

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Description

This instrument, which comes into force on 1st April 2008, adds a new Part, 4B, to the Value Added Tax Regulations 1995¹. The new regulations, 23E and 23F, require a taxable person who is responsible for providing information in relation to arrivals and dispatches of goods between Member States for the purposes of Intrastat to provide that information to the Commissioners for the purposes of value added tax. The new regulations require the information to be provided for the same reference period, on the same form and on the same occasion as the information is provided for Intrastat purposes.

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

None

4. Legislative Background

4.1 Intrastat is the regime established for the purpose of collecting Community statistics relating to the trading of goods between Member States pursuant to the provisions of Council Regulation (EC) 638/2004² and Commission Regulation (EC) 1982/2004³ and implemented in the United Kingdom by the Statistics of Trade (Customs and Excise) Regulations 1992⁴.

4.2 Intrastat requires persons with an annual value of intra-Community trade above a specified figure (currently £260,000 net of VAT and Excise duty) to provide certain information relating to the trading of goods between Member States in which they are concerned. The information is provided on a monthly basis to the Commissioners in their capacity as the national authority responsible for the collection of the information required by the regime and its provision to the Commission.

4.3 Paragraph 2(3) of Schedule 11 to the Value Added Tax Act 1994 gives a power to the Commissioners to make regulations requiring a taxable person to submit information about transactions in which he is concerned and which involve the movement of goods between Member States and about the persons concerned in those transactions.

4.4 These regulations introduce a requirement that the information relating to movements of goods which is required by Intrastat shall be provided to the Commissioners for the purposes of value added tax.

¹ S.I. 1995/2518, relevant amendments S.I. 2007/1418 and S.I. 2007/1599.

² O.J. L102, 07/04/2004, p1.

³ O.J. L343 19/11/2004, p3.

⁴ S.I.1992/2790; relevant amendment by S.I. 2008/557 which comes into force on 1st April 2008 and substitutes new forms with amended headings which indicate the forms are submitted for Intrastat and VAT purposes.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Within the UK, Intra-EU trade statistics are compiled from two sources:

- from the aggregate net value of EU supplies (sales) and acquisitions (purchases) which all VAT registered businesses are required to declare on their VAT returns, used to estimate the total value of trade; and
- from detailed transaction information provided by those businesses – approximately 32,500 – which supply or acquire EU goods over the (current) annual threshold of £260,000 (net of VAT and Excise duty) and which are therefore required to submit monthly ‘Intrastat declarations’.

7.2 Information provided pursuant to the Intrastat regime assists in countering Missing Trader Intra-Community (MTIC) fraud. MTIC fraud is a sophisticated and systematic criminal attack on the VAT system, which has reduced VAT revenues by an estimated £2 to 3 billion in 2005/06 and £1 to 2 billion in 2006/07.

7.3 MTIC fraud arises through contrived transaction chains involving supplies of high value goods which are bought and sold between Member States. The tax loss occurs when the VAT charged by the supplier is not paid to HMRC but a repayment of that VAT can be claimed by first or subsequent purchasers one of whom will export the goods. The Intrastat data identifies the movement of goods across EU frontiers and provides a key source of data for the purpose of identifying and countering the fraud and protecting the revenue.

7.4 The new regulations require the same information provided for Intrastat purposes to be provided for VAT purposes. The information will be provided via the machinery already available for the provision of Intrastat data. Compliance with the new regulations does not therefore place an additional administrative burden on those taxpayers who are required to provide the information.

8. Impact

An Impact Assessment has not been prepared for this instrument as it has no additional administrative impact on business, charities or voluntary bodies.

9. Contact

Jane Hyde at HM Revenue and Customs Tel: 0121 697 4010 or e-mail: jane.hyde@hmrc.gsi.gov.uk can answer any queries regarding the instrument.