

EXPLANATORY MEMORANDUM TO
THE STATISTICS OF TRADE (CUSTOMS AND EXCISE) (AMENDMENT)
REGULATIONS 2008

2008 No. 557

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

2. Description

This instrument, which comes into force on 1st April 2008, amends the Statistics of Trade (Customs and Excise) Regulations 1992 ("the principal regulations")¹. Regulation 2 substitutes new forms for those set out in the Schedule to the principal regulations. The headings on the forms have been altered to indicate they are submitted not only for the purposes of the principal regulations but also for the purposes of the Value Added Tax Regulations 1995 ("the VAT regulations")².

3. Matters of special interest to the Joint 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) 638/2004³ and Commission Regulation (EC) 1982/2004⁴ and implemented by the principal regulations.

4.2 Section 2(2) of the European Communities Act 1972⁵ provides that a designated minister or department may make provision by order, rules, regulations or scheme for the purpose of implementing any Community obligation. Article 2 and the Schedule to the European Communities (Designation) Order 1992⁶ designates the Commissioners for Her Majesty's Revenue and Customs⁷ in relation to measures relating to, and to anything supplemental or incidental to, the receipt, regulation and control of statistics relating to the trading of goods between the United Kingdom and other Member States of the Communities.

¹ S.I. 1992/2790, relevant amendment S.I. 2000/3227.

² S.I. 1995/2518; relevant amendment by the Value Added Tax (Amendment) Regulations, S.I.2008/556 which comes into force on 1st April 2008.

³ O.J. L102, 07/04/2004, p1.

⁴ O.J. L343 19/11/2004, p3.

⁵ 1972, c.68.

⁶ S.I. 1992/707

⁷ The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act 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.

4.3 Regulations 23E and 23F of the Value Added Tax Regulations 1995⁸ provide that a person who is required to provide information relating to movements of goods for Intrastat shall also provide that information to the Commissioners for the purposes of value added tax, for the same reference period, on the same occasion and in the same form as for Intrastat.

4.4 Regulation 4 of the principal regulations stipulates that the information required for Intrastat shall be provided in the appropriate form set out in the Schedule to the principal regulations.

4.5 This instrument substitutes new forms for those set out in the Schedule to the principal regulations. The forms have been amended to indicate that they are submitted for the purposes of value added tax as well as for the purposes of Intrastat.

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 VAT regulations require the same information already provided for Intrastat purposes to be provided also for VAT purposes. The information will be provided

⁸ S.I. 1995/2518; relevant amendment by the Value Added Tax (Amendment) Regulations 2008 (S.I. 2008/556) which introduced regulations 23E and 23F and which comes into force on 1st April 2008.

via the machinery already available for the provision of Intrastat data and this instrument introduces amended forms for this purpose. 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

Margaret Kingston at HM Revenue and Customs Tel: 01702 366576 or e-mail: Margaret.kingston@hmrc.gsi.gov.uk can answer any queries regarding the instrument.