

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (AMENDMENT) REGULATIONS 2012**

2012 No. 33

1. This explanatory memorandum has been prepared by HM Revenue and Customs (“HMRC”) and is laid before the House of Commons by Command of Her Majesty. It contains information for the Select Committee on Statutory Instruments.

2. **Purpose of the instrument**

This instrument amends Part V (accounting, payment and records) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the Principal Regulations”) to extend the requirement for VAT returns to be submitted electronically.

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

None.

4. **Legislative Context**

This instrument amends the Principal Regulations.

5. **Territorial Extent and Application**

This instrument applies to the whole of the United Kingdom.

6. **European Convention on Human Rights**

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

7. **Policy background**

7.1 Following Lord Carter’s 2006 report into HMRC Online Services HMRC’s strategy for administering business taxes has focussed increasingly on moving contact from paper and manual procedures to automated and online. Moving transactions online fully supports the Government’s policy of Digital by Default – which is making a shift from a neutral ‘multi-channel’ approach towards one where people are actively encouraged to use digital online channels for public services - underpinned by assistance into digital where it is needed.

7.2 HMRC has already introduced compulsory online filing for PAYE, Corporation Tax and larger VAT businesses. In 2009 HMRC introduced an enhanced online VAT returns service and from 1 April 2010 online filing of VAT returns and electronic payment became compulsory for newly established and larger businesses. These regulations extend this requirement to the remaining VAT-registered

businesses, that is those businesses registered for VAT before 1 April 2010, and whose annual turnover (excluding VAT) at 31 December 2009 was below £100,000.

7.3 There are two exemptions to this requirement: these are for businesses subject to an insolvency procedure and businesses run by individuals who are practising members of a religious body or faith whose beliefs preclude the use of computers.

7.4 The policy objective is to maximise customer take-up of the online services offered by HMRC in order to:

- provide a better and more cost effective service for customers;
- encourage wider use of new technology that can provide further benefits for customers; and
- efficiently capture clean, easily processed data to help drive down costs for HMRC and its customers.

Consolidation

7.5 There are no projects presently on hand to consolidate the Principal Regulations.

8. Consultation outcome

HMRC consulted on the draft regulations as part of a wider public consultation on VAT online. Few new issues emerged and HMRC will support anyone who has genuine difficulty in converting to online filing and payment.

9. Guidance

9.1 Specific guidance on how to file online is already in place for newly established and larger businesses. Well over half of the 740,000 businesses affected by these new regulations have already signed up voluntarily for VAT Online services. This steady take up is continuing. HMRC's latest research indicates that 81% of remaining paper filers are well aware of the 1 April 2012 deadline set out in these regulations and that only 1% feel that they will be unable to meet it.

9.2 HMRC will continue to publicise the new requirements through 'strap lines' on paper returns, information on the HMRC website, advertisements in the local press, trade and professional media as well as radio broadcasts. HMRC staff will also offer support and advice at face to face events, and work with the wider tax community to ensure the message is as widely disseminated as possible.

9.3 In addition, and in February 2012, HMRC will issue a letter and a guide to each business affected by these regulations which will explain in detail what the new requirements are; what action those businesses need to take as well as how and when to comply. It will also explain what help is available from HMRC and third parties as well as how to access it and how to claim an exemption if needed.

9.4 Further detailed advice on the help available and the deadlines to be observed when paying electronically will be issued as a special supplement to VAT Notes 1 (covering the period April to June 2012).

10. Impact

10.1 The impact on businesses will be broadly deregulatory and will save businesses £3.5 million per annum. Transitional costs will vary but will have a small impact for most businesses. HMRC will provide help and support for those that have difficulty.

10.2 A Tax Information and Impact note covering these regulations was published on 08/08/2011 alongside the draft legislation and is available on the HMRC website at http://www.hmrc.gov.uk/the_library/tiins/htm. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The basis for the final decision on how to help small businesses with this transition has been based upon consultation with stakeholders and on the findings from HMRC's latest research. As well as the formal consultation HMRC has discussed these changes in detail with representatives of the tax and legal professions, small businesses, and trade bodies. There have also been discussions with a number of representative bodies and charities.

12. Monitoring & review

12.1 HMRC will continue its discussions with representative bodies and charities representing low income groups to ensure that the policy intentions are met.

12.2 The numbers of businesses signing up to VAT Online services will be monitored on a weekly basis. Anyone who is required to file online, but who has not signed up by the time their first online filing deadline is approaching, will be reminded individually of the need to act quickly and of the help available should they have difficulty. The regulations allow customers a year's "soft landing" before penalties are applied. If they continue to file on paper between 1 April 2012 and 31 March 2013, we will accept the return but remind them that they need to file online in future. If, despite reminders, they continue to file on paper after 1 April 2013, they will receive a penalty (of about £100) each time they do so. HMRC's experience of mandating newly established and larger VAT businesses indicates that virtually everyone succeeds in going online by the end of the soft landing period - the vast majority do so well within the first few months.

12.3 HMRC will regularly review the position to ensure that the remaining VAT customers transfer to online filing smoothly. HMRC will also check that those customers who need help are taking advantage of it. HMRC will amend or add to that support as necessary should there be evidence of significant numbers of customers for whom the support package does not provide all the support that they need.

13. Contact

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paul.kinsey@hmrc.gsi.gov.uk can answer any queries regarding the instrument.