

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (EDUCATION) ORDER 2013**

2013 No. 1897

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

2. Purpose of the instrument

2.1 This instrument removes the exemption from VAT which currently applies to supplies of business research made by bodies that are eligible for exemption in respect of their educational activities. This instrument applies with effect from 1 August 2013 to all supplies made under written contracts entered into on or after that date. Supplies made pursuant to existing written contracts will continue to be exempted for the term of the contract provided they are made in accordance with the contractual terms as they stood at 31 July 2013.

2.2 'Business research' in this context means research services provided to a recipient in return for consideration. Publicly funded research, for example through grant-in-aid, is generally outside the scope of VAT altogether.

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

3.1 None

4. Legislative Context

4.1 Group 6 of Schedule 9 to the Value Added Tax Act 1994 ("VATA") describes supplies of goods and services in connection with education which are, pursuant to section 31 of the VATA, exempt from value added tax. Item 1 of Group 6 exempts the provision of certain services by eligible bodies (which are defined by Note 1 to Group 6). Item 1(b) exempts the supply of research to another eligible body.

4.2 This instrument omits Item 1(b) (but not the word 'or' after it) from Group 6. This removes 'research, where supplied to an eligible body' from the exemption for VAT.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary to the Treasury, David Gauke MP, has made the following statement regarding human rights:

In my view the provisions of the Value Added Tax (Education) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1 The exemption of supplies of business research between bodies that are eligible for exemption from VAT in respect of their education activities is inconsistent with European VAT law and should therefore be withdrawn.

7.2 The United Kingdom has informed the European Commission that it will withdraw the exemption from VAT with effect from 1 August 2013.

7.3 In order to limit the impact on those eligible bodies that may be affected by the withdrawal, transitional arrangements are being implemented to allow those research projects already underway on 1 August 2013 to keep the benefit of the exemption for the term of the contract. If the contract is extended or varied and the consideration payable is increased after that date then payments for these new or changed supplies will be standard rated although supplies relating to the contract as it stood at 31 July 2013 will remain exempt.

8. Consultation outcome

8.1 A 12 week consultation was carried out to understand the impact of the withdrawal and to help determine what transitional rules were required.

8.2 Based upon the responses, the ‘grandfathering’ of the arrangements (that is allowing existing contracts to run their full life exempt from VAT), is the preferred way forward for those directly affected by the changes.

9. Guidance

9.1 HMRC will publish guidance for stakeholders to assist in understanding which research projects may be affected and how the transitional arrangements will work.

10. Impact

10.1 The impact is limited to charities and other eligible bodies who commission or supply business research (see paragraph 2.2). Most research funded by charities is non-business and so not affected by this change.

10.2 A tax information and impact note covering this instrument will be published and be available on the HMRC website <http://www.hmrc.gov.uk/thelibrary/tiins.htm>

11. Regulating small business

11.1 This legislation applies to all businesses; it does not impact unduly on small businesses and they are unlikely to be affected by it. It is not considered necessary therefore to make any special provision for the application of the legislation to small business.

12. Monitoring & review

12.1 One of the problems with this change has been the apparent difficulty some research providers have found in identifying whether their activities are currently VAT exempt (business) or outside the scope of VAT (non-business) since, in both cases, no VAT is charged and no input VAT can be recovered. However this distinction will be important after the change takes effect. HMRC will keep under review the guidance that helps those carrying out research identify the correct VAT liability.

13. Contact

Keith Parnell at Her Majesty's Revenue and Customs, email: keith.parnell@hmrc.gsi.gov.uk can answer any queries regarding the instrument.