

**2019 No. 408**

**EXITING THE EUROPEAN UNION**

**VALUE ADDED TAX**

**The Value Added Tax (Input Tax) (Specified Supplies) (EU Exit)  
(No. 2) Regulations 2019**

*Made* - - - - 28th February 2019

*Laid before the House of Commons* 1st March 2019

*Coming into force in accordance with regulation 1*

The Treasury make the following Regulations in exercise of the powers conferred by sections 51(1)(a) and 52(2) of the Taxation (Cross-border Trade) Act 2018(a).

In accordance with section 51(1)(a) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU to make the following provisions in relation to value added tax.

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 section 52 of the Taxation (Cross-border Trade) 2018 Act appoint.

**Citation, commencement and effect**

**1.**—(1) These Regulations may be cited as the Value Added Tax (Input Tax) (Specified Supplies) (EU Exit) (No. 2) 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.

(2) The amendments made by these Regulations have effect in relation to supplies of services made on or after the day on which they come into force.

**Amendment of the Value Added Tax Regulations 1995**

**2.** Part 14 (input tax and partial exemption) of the Value Added Tax Regulations 1995(b) is amended as follows.

**3.** In regulation 102 (use of other methods), after paragraph (2) insert—

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(a) 2018 c. 22; section 51(1)(a) permits “the appropriate Minister” to make provision relating to value added tax and under section 51(4)(b) “the appropriate Minister” means the Treasury.  
(b) S.I. 1995/2518; relevant amendments have been made by S.I. 2004/3140, 2005/762, 2007/768, 2009/820, 2010/559 and 2015/1978.

“(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—

- (a) no attribution is to be made in relation to any supplies that are made within the United Kingdom unless—
  - (i) the supply is directly linked to the export of goods and the recipient of the goods is located outside the United Kingdom, or
  - (ii) 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 the United Kingdom, and
- (b) attribution may be made in relation to any supplies that are made within the European Union.”.

4. In regulation 103B (attribution of input tax incurred on services and related goods used to make financial supplies), in paragraph (3)(a) omit “and any supply of the same description which is made in another member State”.

#### **Amendment of the Value Added Tax (Input Tax) (Specified Supplies) Order 1999**

5. The Value Added Tax (Input Tax) (Specified Supplies) Order 1999(a) is amended as follows.

6. In article 3, in paragraphs (a) and (b) for “member States” substitute “United Kingdom”.

*Mike Freer*  
*Jeremy Quin*

28th February 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the 1995 Regulations”) and the Value Added Tax (Input Tax) (Specified Supplies) Order 1999 (S.I. 1999/3121) (“the SSO”) to make changes required as a consequence of the withdrawal of the United Kingdom (“UK”) from the European Union (“EU”).

Regulations 2 to 4 amend the 1995 Regulations.

Regulation 3 makes provision in relation to the attribution of input tax to certain exempt supplies under a partial exemption method approved or directed by the Commissioners under paragraph (1) of regulation 102 (use of other methods) of the 1995 Regulations. It both restricts the attribution that can be made 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 and allows for attribution where any supplies are made within the EU.

Regulation 4 limits the definition of a ‘relevant supply’ in regulation 103B (attribution of input tax incurred on services and related goods used make financial supplies) of the 1995 Regulations so that it only covers a supply of financial services of a description falling within the Value Added Tax Act 1994 (c. 23) and does not extend to a similar supply made in a member State of the EU.

Regulations 5 and 6 amend the SSO to make changes required as a result of the UK’s withdrawal from the EU.

Regulation 6 ensures that all specified supplies of services supplied to persons who belong outside the UK or which are directly linked to the export of goods to a place outside the UK are entitled to

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(a) S.I. 1999/3121; amended by S.I. 2018/1328 with effect from 1st March 2019.

the same treatment (exemption with refund) by extending that provision to include specified supplies made to persons who belong within the EU or which are directly linked to the export of goods from the UK to a place within the EU. It also ensures that supplies of services of a type covered by the SSO which are supplied to persons within the UK will continue to be exempt after the UK is no longer a member State of the EU.

This instrument will be covered by an overarching HMRC impact assessment on VAT and services 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>.

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