

2019 No. 59

EXITING THE EUROPEAN UNION

VALUE ADDED TAX

The Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019

Made - - - - - *21st January 2019*

Laid before the House of Commons *22nd January 2019*

Coming into force in accordance with regulation 1

The Treasury make these Regulations in exercise of the powers conferred by sections 51(1)(a), 52(2) and 56(1) of the Taxation (Cross-border Trade) Act 2018(a).

The Treasury consider it appropriate in consequence of the Taxation (Cross-border Trade) Act 2018 and in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, to make the following provision in relation to value added tax.

In accordance with section 52(2) of that Act, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union, for the following Regulations to come into force on such day or days as the Treasury may by regulations under that section appoint.

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) 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.

(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; section 56(1) permits “the appropriate Minister” to make provision in consequence of the Act and under section 56(5)(b) “the appropriate Minister” means the Treasury.

PART 2

Amendment of secondary legislation relating to value added tax

Amendment of the Value Added Tax (Terminal Markets) Order 1973

2.—(1) The Value Added Tax (Terminal Markets) Order 1973(a) is amended as follows.

(2) In article 6—

- (a) omit “or under Schedule 3”;
- (b) omit “or acquisition”;
- (c) omit “or paragraph 3 of Schedule 3”.

Amendment of the Value Added Tax (Imported Goods) Relief Order 1984

3.—(1) The Value Added Tax (Imported Goods) Relief Order 1984(b) is amended as follows.

(2) In article 2—

- (a) in paragraph (1)—
 - (i) in the definitions of “abroad”, “exported” and “sent” for “the member States”, in each place it occurs, substitute “the United Kingdom”;
 - (ii) after the definition of “exported” insert—

““import” means import into the United Kingdom and “imported” and “importation” are to be construed accordingly;”;
 - (iii) omit the definition of “third country”;
- (b) for paragraph (2) substitute—

“(2) In this Order, references to a heading or sub-heading are references to a heading or sub-heading of the customs tariff (within the meaning of the Taxation (Cross-border Trade) Act 2018) code.”;
- (c) omit paragraphs (4) and (5).

(3) In article 3, in paragraph (2) omit “from a place outside or within the member States”.

(4) In Schedule 2—

- (a) in Group 3, in Item 3 for “in a third country” substitute “abroad”;
- (b) in Group 5—
 - (i) in Item 3 omit “from a place outside the member States”;
 - (ii) for Note (2) substitute—

“(2) Item 3 applies only to the extent that conditions for the equivalent import duty relief are met.”;
- (c) in Group 6—
 - (i) in Items 4 and 5 for “one or more member States”, in both places it occurs, substitute “the United Kingdom”;
 - (ii) in Note (5) for “the Commission of the European Union” substitute “HM Treasury”;
- (d) in Group 7, in Note (2) omit “third”.

(a) S.I. 1973/173; article 6 was inserted by S.I. 1999/3117; there are other amending instruments but none is relevant.
(b) S.I. 1984/746; relevant amending instruments are S.I. 1987/2108, 1988/2212, 1992/3120 and 2011/1043.

Amendment of the Value Added Tax (Small Non-Commercial Consignments) Relief Order 1986

4.—(1) The Value Added Tax (Small Non-Commercial Consignments) Relief Order 1986(a) is amended as follows.

(2) In article 3(1) omit “from a place outside the member States”.

Amendment of the Value Added Tax (Cars) Order 1992

5.—(1) The Value Added Tax (Cars) Order 1992(b) is amended as follows.

(2) In article 4—

(a) in paragraph (1)—

(i) for “(1A) to (2)” substitute “(1A) to (1C)”;

(ii) in sub-paragraph (f) omit “acquired from another member State or”;

(b) in paragraphs (1A) and (1B) omit “, acquisition” in both places;

(c) omit paragraph (2).

(3) In article 5—

(a) in paragraph (1)(c) omit “or acquired from another member State”;

(b) in paragraph (2) omit “or acquisition”;

(c) in paragraph (3)(b)—

(i) omit “or acquired from another member State”;

(ii) for “, importation or acquisition from another member State” substitute “or importation”.

(4) In article 8, in paragraph (2)(b) omit “or a corresponding provision of the law of another member State”.

Amendment of the Value Added Tax (Imported Gold) Relief Order 1992

6.—(1) The Value Added Tax (Imported Gold) Relief Order 1992(c) is amended as follows.

(2) In article 2 omit “from a place outside the Member States”.

Amendment of the Value Added Tax (Supply of Temporarily Imported Goods) Order 1992

7.—(1) The Value Added Tax (Supply of Temporarily Imported Goods) Order 1992(d) is amended as follows.

(2) In article 2—

(a) in paragraph (1)—

(i) in the words before sub-paragraph (a), for “temporary importation arrangements” substitute “a temporary admission procedure”;

(ii) for sub-paragraph (a) substitute—

“(a) the conditions for getting full relief from import duty under regulation 40 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(e) continue to be met; and”;

(iii) in sub-paragraph (b), for “member States” substitute “United Kingdom”;

(a) S.I. 1986/939, as amended by S.I. 1992/3118; there are other amending instruments but none is relevant.

(b) S.I. 1992/3122; relevant amending instruments are S.I. 1995/1269, 1995/1667, 1997/1615, 1998/759, 1999/2832, 2001/3754, 2002/1502 and 2006/874.

(c) S.I. 1992/3124.

(d) S.I. 1992/3130.

(e) S.I. 2018/1249.

(b) for paragraph (2), substitute—

“(2) “Goods held under a temporary admission procedure” means goods declared for a temporary admission procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018, for which full relief from a liability to import duty is to be given under regulation 40 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.”

Amendment of the Value Added Tax (Input Tax) Order 1992

8.—(1) The Value Added Tax (Input Tax) Order 1992^(a) is amended as follows.

(2) In article 2—

(a) in the definition of “motor dealer” omit “or acquiring from another member State”;

(b) in the definition of “stock in trade”—

(i) in paragraph (a) omit “or acquired from another member State”;

(ii) in paragraph (b)(ii) omit “, acquisition from another member State”.

(3) In article 4—

(a) in paragraph (1)—

(i) omit sub-paragraph (b), but not the final “or”;

(ii) in the words after sub-paragraph (c) omit “or acquired from another member State”;

(b) in paragraph (3)—

(i) in the words before sub-paragraph (a) omit “, acquisition from another member State”;

(ii) in sub-paragraph (a) omit “or by virtue of a corresponding provision of the law of another member State”;

(iii) in sub-paragraph (c) omit “, or acquired from another member State by him from”;

(c) in paragraph (4), in the words before sub-paragraph (a) omit “or an acquisition”.

(4) In article 5, in paragraph (1) omit “or on any goods acquired by a taxable person.”.

(5) In article 6 omit “, acquisition”.

(6) In article 7—

(a) in paragraph (1) omit sub-paragraph (b), but not the final “or”;

(b) in paragraph (2), in sub-paragraph (a)(ii) omit “or acquired from another member State”;

(c) in paragraph (2A), in sub-paragraph (a)—

(i) omit “, acquired from another member State.”;

(ii) omit “, acquisition”;

(d) in paragraph (2B), in sub-paragraph (b)—

(i) omit “or acquired from another member State”;

(ii) omit “, acquisition”;

(e) in paragraph (2C)—

(i) omit “, acquired from another member State”;

(ii) omit “acquired or”;

(f) in paragraph (2E), in the words before sub-paragraph (a) omit “, acquisition”;

(g) in paragraph (2F), in the words before sub-paragraph (a) omit “or acquired”.

^(a) S.I. 1992/3222, amended by S.I. 1995/281, 1995/1267, 1995/1666, 1998/2767, 1999/2930, 1999/3118, 2009/217 and 2011/1071.

Amendment of the Value Added Tax (Payments on Account) Order 1993

9.—(1) The Value Added Tax (Payments on Account) Order 1993(a) is amended as follows.

(2) In articles 2(2), 11(1), 12, 12A(1), 13(a), 13(b), 14, 15(a) and 15(b), for “excluding the tax on goods imported from countries other than member States”, in each place it occurs, substitute “excluding any tax on imports which has not been accounted for under provisions in the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(b)”.

(3) In the heading of article 2A omit “intra-community”.

Amendment of the Value Added Tax (Treatment of Transactions) Order 1995

10.—(1) The Value Added Tax (Treatment of Transactions) Order 1995(c) is amended as follows.

(2) In article 3—

(a) in paragraph (1)(a) and (b), for “from a place outside the member States”, in both places it occurs, substitute “into the United Kingdom”;

(b) in the words after paragraph (1)(b), for the words from “temporary importation with total exemption from import duty” to “No 2913/92”, substitute “a temporary admission procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018, where full relief from a liability to import duty is to be given under regulation 40 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018”.

(3) In article 4—

(a) in paragraph (1)(b), for “from a place outside the member States” substitute “into the United Kingdom”;

(b) for paragraph (3) substitute—

“(3) The specified procedure is a temporary admission procedure within the meaning given in paragraph 15 of Schedule 2 to the Taxation (Cross-border Trade) Act 2018 where full relief from a liability to import duty is to be given under regulation 40 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.”

Amendment of the Value Added Tax (Special Provisions) Order 1995

11.—(1) The Value Added Tax (Special Provisions) Order 1995(d) is amended as follows.

(2) Omit articles 7 and 8.

(3) In article 12—

(a) in paragraph (3)—

(i) in sub-paragraph (a)(ii) omit “or a corresponding provision of the law of another member State”;

(ii) in sub-paragraph (a)(v) omit “, or an acquisition from another member State by him from”;

(iii) in sub-paragraph (b), for the words from “the customs procedure for temporary importation” to the end, substitute “a temporary admission procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018, where full relief from a liability to import duty is to be given under regulation 40 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018.”;

(b) in paragraph (5)(a)—

(i) omit paragraph (iii);

(a) S.I. 1993/2001, amended by S.I. 1995/291, 1996/1196, 2007/1420 and 2011/21.

(b) S.I. 2019/60.

(c) S.I. 1995/958, amended by S.I. 1999/3119 and 2006/2187.

(d) S.I. 1995/1268; relevant amending instruments are S.I. 1997/1616, 1998/760, 2001/3753, 2002/1503 and 2006/2187.

- (ii) in paragraph (iv), for “the customs procedure for temporary importation with total relief from import duties mentioned in article 12(3)(b)” substitute “a temporary admission procedure mentioned in article 12(3)(b)”.

Amendment of the Value Added Tax Regulations 1995

12. The Value Added Tax Regulations 1995(a) are amended as follows.

Part 1 (preliminary)

13. In regulation 2(1)—

- (a) omit the definition of “alphabetical code”;
- (b) omit the definition of “European Union”;
- (c) in the definition of “registered person” omit “, 2, 3”.

Part 2 (registration and provisions for special cases)

14. In regulation 5—

- (a) in paragraph (1) omit “, paragraph 3(1) of Schedule 2, paragraph 3(1) of Schedule 3”;
- (b) in paragraphs (2) and (3) omit “, paragraph 5 of Schedule 2, paragraph 5 of Schedule 3” in both places;
- (c) omit paragraphs (3)(d) and (e).

15. Omit regulation 11.

16. Omit regulation 12.

Part 3 (VAT invoices and other invoicing requirements)

17. In regulation 13—

- (a) in paragraph (1)—
 - (i) omit sub-paragraph (b) and the preceding “or”;
 - (ii) omit sub-paragraph (c);
- (b) omit paragraph (1A);
- (c) omit paragraph (1B);
- (d) in paragraph (3A)(b) omit “or (2)”;
- (e) omit paragraph (3E);
- (f) in paragraph (6) omit sub-paragraph (a).

18. In regulation 14—

- (a) in paragraph (1) omit “paragraph (2) below and”;
- (b) omit paragraph (2);
- (c) in paragraph (7) omit “ and 14(2)”;
- (d) omit paragraph (8).

19. In regulation 16(1) omit “and the supply is other than to a person in another member State”.

(a) S.I. 1995/2518; relevant amending instruments are S.I. 1996/1250, 1997/1086, 1997/2887, 1998/59, 1999/438, 1999/3029, 1999/3114, 2000/258, 2000/794, 2001/1149, 2002/1074, 2002/1142, 2002/3027, 2003/1114, 2003/1485, 2003/2096, 2003/3220, 2004/1082, 2004/1675, 2004/3140, 2005/762, 2005/2231, 2006/3292, 2007/313, 2007/768, 2007/1418, 2007/2085, 2007/3099, 2009/586, 2009/820, 2009/2978, 2009/3241, 2010/559, 2010/2240, 2010/2940, 2010/3022, 2011/1043, 2011/2085, 2012/1899, 2012/2951, 2013/701, 2014/548, 2014/1497, 2014/2430, 2015/1978 and 2018/261; there are other amending instruments which are not relevant.

- 20. In regulation 16A omit “and the supply is other than to a person in another member State”.
- 21. Omit regulation 17.
- 22. Omit regulation 18.
- 23. Omit regulation 19.
- 24. In regulation 20—
 - (a) in the words before paragraph (a), for “, 16 , 17, 18 and 19” substitute “and 16”;
 - (b) in sub-paragraph (a) omit the words from “other than” to the end.

Part 4 (EC sales statements)

- 25. Omit Part 4.

Part 4A (reverse charge sales statements)

- 26. In regulation 23A, in the definition of “relevant supply” omit “intra-community”.

Part 5 (accounting, payment and records)

- 27. In regulation 24—
 - (a) omit the definition of “the Removal Order”;
 - (b) for the definition of “the owner” substitute—

““the owner” means the person who is carrying on the business of which the goods form part of the assets.”.
- 28. In regulation 25—
 - (a) in paragraph (1)(b) omit “, 2, 3”;
 - (b) in paragraph (4)(b) omit “, paragraph 4 of Schedule 2 or paragraph 4 of Schedule 3”.
- 29. Omit regulation 26.
- 30. In regulation 29—
 - (a) in paragraph (2)—
 - (i) at the end of sub-paragraph (c) insert “or”;
 - (ii) omit sub-paragraphs (e) and (f);
 - (b) in paragraph (4) omit “or acquired”.
- 31. In regulation 31—
 - (a) in paragraph (1)—
 - (i) for sub-paragraph (da) substitute—

“(da) all certificates given to him relating to supplies by him of goods or services, provided that, owing to provisions in force which concern fiscal or other warehousing regimes, those supplies are either zero-rated or treated for the purposes of the Act as taking place outside the United Kingdom,”;
 - (ii) omit sub-paragraphs (e) to (g);
 - (b) omit paragraph (3).
- 32. In regulation 31A(2), for “15,000 euro” substitute “£13,000”.
- 33. Omit regulation 33.
- 34. In regulation 33A, for “, 32 and 33” substitute “and 32”.

35. For regulation 33B substitute—

“**33B.** Where a person of a description in article 6 of the Value Added Tax (Terminal Markets) Order 1973 makes or receives supplies of a description falling within that article, Part 5 of these Regulations shall not apply in relation to those supplies.”.

36. Omit regulation 36.

37. In the heading of regulation 38A omit “intra-community”.

38. For regulation 41 substitute—

“**41.** Where, in respect of any supply by a taxable person of dutiable goods, the time of supply precedes the duty point in relation to those goods, the VAT in respect of that supply shall be accounted for and paid, and any question as to the inclusion of any duty in the value of the supply shall be determined, by reference to the duty point or by reference to such later time as the Commissioners may allow.”.

39. Omit regulation 42.

Part 5A (reimbursement arrangements)

40. In regulation 43A, in the definition of “claim” omit paragraph (b) and the preceding “or”.

Part 7A (flat-rate scheme for small businesses)

41. In regulation 55C—

(a) in paragraph (1)—

(i) omit sub-paragraph (b), but not the final ‘or’;

(ii) in sub-paragraph (c) omit “from a place outside the member States”;

(b) in paragraph (4)(a) omit “, or acquisition”;

(c) in paragraph (6) omit “intra-community”.

42. In regulation 55E(3) omit “, acquisition”.

Part 11 (time of supply and time of acquisition)

43. In the heading of Part 11 omit “and time of acquisition”.

44. Omit regulation 83.

45. In regulation 86(1) omit “Except in relation to a supply to which subsections (7) and (8) of section 6 of the Act apply, and”.

46. In regulation 88(1) omit “or to a supply to which subsections (7) and (8) of section 6 of the Act apply,”.

47. In regulation 89 omit “(other than for a supply to which subsections (7) and (8) of section 6 of the Act apply)”.

Part 12 (valuation of acquisitions)

48. Omit Part 12.

Part 13 (place of supply)

49. Omit Part 13.

Part 14 (input tax and partial exemption)

50. In regulation 99(1)—

- (a) in sub-paragraph (a) omit “or acquired”;
- (b) in sub-paragraphs (c)(ii), (d)(i) and (e) omit “, 2, 3”.

51. In regulation 100 omit “or acquisition”.

52. In regulation 101—

- (a) in paragraph (2)(a) omit “or acquired”;
- (b) in paragraph (3)(c) omit “, acquired”;
- (c) in paragraph (8) omit “acquired by or”.

53. In regulation 103(1) omit “or acquired”.

54. In regulation 103A—

- (a) in paragraph (2)(a) omit “, or on investment gold acquired by him”;
- (b) in paragraph (2)(b) omit “, an acquisition by him,”;
- (c) in paragraph (3) omit “, any acquisitions of goods by him”.

55. In regulation 111—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a) omit “or acquisition”;
 - (ii) in sub-paragraph (b), in the words before paragraph (i) omit “or acquisition”;
 - (iii) in sub-paragraph (b)(ii) omit “, acquisition”;
 - (iv) in sub-paragraph (b)(iii) omit “, acquired”;
- (b) in paragraphs (2)(b), (2B)(b), (2C) and (2D) omit “or acquired” in each place.

Part 15A (goods used for non-business purposes during their economic life)

56. In regulation 116C omit “, or acquired”.

57. In regulation 116G omit “, acquired”.

Part 16(A) (fiscal and other warehousing regimes)

58. Omit regulation 145B.

59. In the heading of regulation 145H omit “and transfers overseas”.

60. In regulation 145H—

- (a) in paragraph (2)—
 - (i) omit sub-paragraph (b);
 - (ii) in sub-paragraph (c), for “member States” substitute “United Kingdom”;
- (b) in paragraph (4)—
 - (i) omit sub-paragraph (b), but not the final “or”;
 - (ii) in sub-paragraph (c), for “member States” substitute “United Kingdom”.

61. For regulation 145J(3) substitute—

“(3) In paragraph (2)(a) “status” is a reference to whether the person in question is or is required to be registered under the Act or would be required to register under the Act were it not for paragraph 1(9) of Schedule 1 to the Act.”.

Part 17 (means of transport)

- 62.** Omit regulations 146 to 148.
- 63.** In regulation 148A—
- (a) in paragraph (1), for “section 95 of, and paragraph 2(5D)” substitute “paragraph 2(5E)”;
 - (b) in paragraph (9)—
 - (i) in sub-paragraph (d) omit “any vehicle registration mark allocated to it by any competent authority in another member State prior to its arrival and”;
 - (ii) omit sub-paragraphs (g) and (h);
 - (iii) in sub-paragraph (i), for paragraph (ii) substitute—
 - “(ii) any identifying number contained in a customs declaration made for the purposes of Part 1 of the Taxation (Cross-border Trade) Act 2018, and”;
 - (c) omit paragraphs (10) and (12) to (16).
- 64.** Omit regulations 149 to 155.

Part 19 (bad debt relief (the new scheme))

- 65.** In regulation 165—
- (a) in the definition of “claim” omit “or 166AA”;
 - (b) in the definition of “return” omit the words after “25”;
 - (c) omit the definition of “tax period”.
- 66.** In regulation 166(1) omit “Subject to regulation 166AA, and”.
- 67.** Omit regulation 166AA.
- 68.** In regulation 168 omit paragraph (4).
- 69.** In regulation 171—
- (a) in paragraph (1) omit “Subject to regulation 171A,”;
 - (b) in paragraph (2) omit “Subject to regulation 171B,”;
 - (c) in paragraph (3) omit “Subject to regulation 171B and,”.
- 70.** Omit regulations 171A and 171B.

Part 20 (repayments to community traders)

- 71.** Omit Part 20.

Part 21 (repayments to third country traders)

- 72.** In the heading of Part 21, for “third country traders” substitute “traders outside the United Kingdom”.
- 73.** In regulation 185(1)—
- (a) omit the definition of “third country”;
 - (b) in the definition of “trader”, for “in a third country” substitute “outside the United Kingdom”.
- 74.** In regulation 188—
- (a) in paragraph (1) omit “third”;
 - (b) in paragraph (2) omit sub-paragraph (a).

75. In regulation 191(1)(b)(i) omit “third”.

Part 24 (flat-rate scheme for farmers)

76. In regulation 205, for “Schedule 1, 1A or 3” substitute “Schedule 1 or 1A”.

77. In regulation 206(1)—

- (a) in sub-paragraph (f), for “Schedule 1, 1A or 3” substitute “Schedule 1 or 1A”;
- (b) in sub-paragraph (h) omit “or 3”.

78. In regulation 208(a), for “Schedule 1, 1A or 3” substitute “Schedule 1 or 1A”.

Part 26 (UK union and non-union special accounting schemes: registration, notification of changes, and returns)

79. Omit Part 26.

Part 27 (Non-UK union and non-union special accounting schemes: adjustments, claims and error correction)

80. Omit Part 27.

Schedule 1A: Fiscal warehousing regime

81. In Schedule 1A—

- (a) in paragraph 1—
 - (i) omit sub-paragraph (e);
 - (ii) in sub-paragraph (f), for “member States”, in both places it occurs, substitute “United Kingdom”;
- (b) in paragraph 3—
 - (i) omit sub-paragraph (c);
 - (ii) in sub-paragraph (d), for “member States” substitute “United Kingdom”;
- (c) in paragraph 4(b)—
 - (i) for “articles 145H(4)(b) or” substitute “regulation”;
 - (ii) for “another member State” substitute “the United Kingdom”;
 - (iii) for “the member States” substitute “the United Kingdom”.

Amendment of the Value Added Tax (Importation of Investment Gold) Relief Order 1999

82.—(1) The Value Added Tax (Importation of Investment Gold) Relief Order 1999(a) is amended as follows.

- (2) In article 3 omit “from places outside the member States”.

Amendment of the Value Added Tax (Place of Supply of Goods) Order 2004

83.—(1) The Value Added Tax (Place of Supply of Goods) Order 2004(b) is amended as follows.

- (2) In Part 3 (supplies of gas, electricity, heat or cooling), in article 9(c)(i)—
 - (a) for “situated within the territory of a member State” substitute “in the United Kingdom”;
 - (b) for “such a system” substitute “a natural gas system in the United Kingdom”.

(a) S.I. 1999/3115.

(b) S.I. 2004/3148, amended by S.I. 2010/2923. There is another amending instrument but it is not relevant.

Amendment of the Value Added Tax (Section 55A) (Specified Goods and Services and Excepted Supplies) Order 2010

84.—(1) The Value Added Tax (Section 55A) (Specified Goods and Services and Excepted Supplies) Order 2010(a) is amended as follows.

(2) In article 3, for the definition of “the Directive” substitute—

““the Directive” means Directive 2003/87/EC(b) of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community, as it has effect in EU law as amended from time to time, before and after exit day;”.

(3) In article 4 omit “intra-community”.

Amendment of the Value Added Tax (Imported Gas, Electricity, Heat and Cooling) Relief Order 2010

85.—(1) The Value Added Tax (Imported Gas, Electricity, Heat and Cooling) Relief Order 2010(c) is amended as follows.

(2) In article 3, in the words before paragraph (a) omit “from a place outside the member States”.

Amendment of the Value Added Tax (Section 55A) (Specified Goods and Excepted Supplies) Order 2014

86.—(1) The Value Added Tax (Section 55A) (Specified Goods and Excepted Supplies) Order 2014(d) is amended as follows.

(2) In article 3(1) omit “intra-Community”.

(3) In article 4(a)—

(a) for “situated within the territory of a member State” substitute “in the United Kingdom”;

(b) for “such a system” substitute “a natural gas system in the United Kingdom”.

Amendment of the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2016

87.—(1) The Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2016(e) is amended as follows.

(2) In article 3(1) omit “intra-community”.

Amendment of the Indirect Taxes (Notifiable Arrangements) Regulations 2017

88.—(1) Part 2 (notifiable arrangements – VAT) of the Indirect Taxes (Notifiable Arrangements) Regulations 2017(f) is amended as follows.

(2) In regulation 5—

(a) in paragraph (2), for “EU” substitute “United Kingdom”;

(b) for paragraph (3) substitute—

“(3) E makes a supply of services to a person (“F”) who belongs in the United Kingdom and—

(a) S.I. 2010/2239.

(b) OJ No L 275, 25.10.03, p 32; relevant amending instruments are Directive 2004/101/EC, OJ No. L 338, 13.11.2004, p.18; Directive 2008/101/EC, OJ No. L 8, 13.1.2009, p.3; Directive 2009/29/EC, OJ No. L 140, 5.6.2009, p.63; Directive (EU) 2018/410, OJ No. L 76, 19.3.2018, p.3.

(c) S.I. 2010/2924.

(d) S.I. 2014/1458.

(e) S.I. 2016/12, amended by S.I. 2017/778.

(f) S.I. 2017/1216.

- (a) where the place of supply of the services is the United Kingdom, it is an exempt supply; or
- (b) in any other case, it would be an exempt supply if it were made in the United Kingdom.”.

(3) In regulation 6—

- (a) in paragraph (2), for “EU” substitute “United Kingdom”;
- (b) in paragraph (4)—
 - (i) in the words before sub-paragraph (a), for “EU” substitute “United Kingdom”;
 - (ii) for sub-paragraph (a) substitute—
 - “(a) is an exempt supply made in the United Kingdom; or”.

PART 3

Revocations

89. The following Orders are revoked, so far as not already revoked—

- (a) The Value Added Tax (Removal of Goods) Order 1992**(a)**;
- (b) The Value Added Tax (Treatment of Transactions) (No. 2) Order 1992**(b)**;
- (c) The Value Added Tax (Acquisitions) Relief Order 2002**(c)**;
- (d) The Value Added Tax (Removal of Gas, Electricity, Heat and Cooling) Order 2010**(d)**;
- (e) The Value Added Tax (Relief for European Research Infrastructure Consortia) Order 2012**(e)**;
- (f) The Value Added Tax (Removal of Goods) (Amendment) Order 2012**(f)**.

Rebecca Harris
Craig Whittaker

21st January 2019

Two of the Lord Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in sections 51, 52 and 56 of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA”) in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union.

The Regulations make consequential amendments to secondary legislation relating to value added tax (“VAT”) in line with changes made by the European Union (Withdrawal) Act 2018 (c. 16) and TCTA. They revoke legislation relating to VAT which is inoperable as a result of the abolition of acquisition VAT by the TCTA.

(a) S.I. 1992/3111, amended by S.I. 2011/1043 and 2012/2953. Words “permanent establishment” in article 3 substituted by virtue of section 153(3) of the Finance Act 2003 (c. 14).

(b) S.I. 1992/3132.

(c) S.I. 2002/1935.

(d) S.I. 2010/2925.

(e) S.I. 2012/2907; article 3 is revoked by paragraph 132(k) of Schedule 8 to the Taxation (Cross-border) Trade Act 2018 (c. 22) on a date to be appointed by the Treasury under section 57(3) of that Act.

(f) S.I. 2012/2953.

The Regulations are made to address failures of retained EU law to operate effectively, and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Under regulation 1 the Regulations are to come into force on such day or days as the Treasury may appoint.

Part 2 amends secondary legislation relating to VAT, including the Value Added Tax Regulations 1995 (“the principal VAT Regulations”). Amendments are made to reflect the fact that the United Kingdom is no longer a member State of the EU and that EU member States are now treated in the same way as the rest of the world vis-à-vis the United Kingdom. Amendments are made as a consequence of the abolition of acquisition VAT and extension of import VAT to EU member States and to reflect the new definition of importation and other new terminology, such as “temporary admission procedure” in TCTA.

Amendments to the Value Added Tax (Payments on Account) Order 1993 (regulation 9) take account of new accounting procedures for import VAT introduced in the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019.

Part 3 revokes legislation relating to VAT which is inoperable as a result of the abolition of acquisition VAT by, and introduction of new customs procedures under, the TCTA. It also revokes legislation relating to VAT which is spent as a result of these revocations. The Value Added Tax (Removal of Goods) Order 1992 sets out various circumstances in which movements of goods between EU member States will not be treated as a supply of goods. The Value Added Tax (Treatment of Transactions) (No. 2) Order 1992 treats the supply to a Central Bank of gold by a supplier in an EU member State as not giving rise to an acquisition of goods. The Value Added Tax (Acquisitions Relief) Order 2002 provides that no VAT is payable on an acquisition of goods from an EU member State where, had the goods been imported from outside the European Union, relief would have been given. The Value Added Tax (Removal of Gas, Electricity, Heat and Cooling) Order 2010 makes provision in relation to the removal of gas, electricity, heat or cooling supplied through a network situated within the territory of an EU member State. The Value Added Tax (Research for European Infrastructure Consortia) Order 2012 provides VAT relief on imports or acquisitions of goods by a European Research Infrastructure Consortium. The Value Added Tax (Removal of Goods) (Amendment) Order 2012 amends the Value Added Tax (Removal of Goods) Order 1992 and is spent as a result of the revocation of that Order.

This instrument will be covered by an overarching HMRC impact assessment (second edition) 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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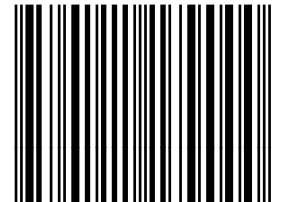
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