

**EXPLANATORY MEMORANDUM TO**

**THE VALUE ADDED TAX AND EXCISE PERSONAL RELIEFS (SPECIAL VISITORS AND GOODS PERMANENTLY IMPORTED) (AMENDMENT) (EU EXIT) REGULATIONS 2019**

**2019 No. 91**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") on behalf of Her Majesty's Treasury ("the Treasury") and is laid before the House of Commons by Command of Her Majesty.
- 1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This instrument is one of a number of instruments to be made under the Taxation (Cross-border Trade) Act 2018 ("TCTA") in preparation for the United Kingdom's ("UK") exit from the European Union ("EU"). In the event of the UK leaving the EU without a deal, legislation will be necessary to ensure the UK's Value Added Tax ("VAT") and excise duty regimes operate as required.
- 2.2 This instrument contains consequential measures as a result of the UK's withdrawal from the EU. It ensures that certain goods brought into the UK by private individuals, diplomats and visiting forces that are currently free of UK VAT and excise duty (where applicable), continue to be so post EU exit.

**3. Matters of special interest to Parliament**

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

- 3.1 This instrument is necessary to deal with the consequences of the UK leaving the EU without a deal. It will therefore only come into force on a date or dates specified in a separate instrument in the event that the UK withdraws from the EU without a negotiated arrangement.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.

**5. European Convention on Human Rights**

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

## **6. Legislative Context**

- 6.1 This instrument is made using powers in section 51, 52 and 56 of TCTA which provide that the Treasury may make regulations that they consider appropriate in consequence of, or otherwise in connection with, the withdrawal of the UK from the EU (section 51) or that they consider appropriate in consequence of TCTA (section 56), and for regulations to come into force on a day to be appointed (section 52).
- 6.2 Part 3 (sections 41 to 43) and Schedule 8 TCTA amend the Value Added Tax Act 1994 (“VATA”) to make provision in relation to VAT in connection with the withdrawal of the UK from the EU. Section 50 and Schedule 9 TCTA amend statutes relating to excise duty in connection with the withdrawal of the UK from the EU. Section 57(3) TCTA provides that those amendments come into force on days appointed by Treasury regulations. Sections 51 and 56 of TCTA provide the power for the Treasury to make further provision subject to negative procedure (unless amending primary legislation) in relation to VAT and excise duties as a consequence of, or otherwise in connection with, the withdrawal of the UK from the EU and in consequence of TCTA itself. Section 57(1) of TCTA provides (amongst other things) that sections 51 and 52 (Part 5: other provisions connected with the withdrawal from EU) and section 56 (Part 6: final provisions) which provide the power to make this instrument come into force on the day on which the Act is passed. TCTA received Royal Assent on 13 September 2018.
- 6.3 This instrument makes a number of consequential amendments to two existing Orders that provide relief from VAT and excise duty (where applicable) to certain goods belonging to eligible individuals.
- 6.4 The two instruments amended are the Customs & Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992 (SI 1992/3193) (“the Goods Permanently Imported Order”) and the Customs & Excise (Personal Reliefs for Special Visitors) Order 1992 (SI 1992/3156) (“the Special Visitors Order”). The amendments to the Orders ensure that any VAT and excise duty reliefs that applied before EU exit continues to apply afterwards. The amendment to article 14 of the Special Visitors Order ensures that those EU officials who are currently entitled to relief from VAT and excise duty under that Order will continue to be so entitled after the UK withdraws from the EU.
- 6.5 In respect of both Orders, the changes relating to VAT are consequential on changes made by TCTA, to the extent that TCTA provides that goods entering the UK from EU member States will be subject to import VAT and abolishes acquisition tax (the VAT on imports from the EU). The scope of the reliefs from VAT is amended where required, to reflect the abolition of acquisition tax and the corresponding extension of import VAT.
- 6.6 The reliefs provided for in the Goods Permanently Imported Order, and some of the reliefs in the Special Visitors Order, extend to relief from excise duty as well as VAT. The amendments to the Orders which reflect the UK’s future withdrawal from the EU and the import duty provisions in TCTA, for example the amendments to the definitions of ‘importation’ and ‘another country’, ensure that the reliefs from excise duty will continue to operate after the UK withdraws from the EU.
- 6.7 In the event that the UK exits the EU without a negotiated agreement, this instrument will be commenced so that the changes take effect at the same time as the provisions in Part 1 TCTA (import VAT) and Part 3 TCTA (the abolition of acquisition tax and

the extension of import VAT). For this reason, this instrument anticipates the changes to be made to the VAT regime by TCTA by relying on provisions of TCTA, including those contained within amendments to VATA, that have not yet been commenced. This is consistent with the purpose of the powers in Parts 5 and 6 of TCTA which are intended to ensure (amongst other things) that the UK has a VAT regime which works as required on EU exit.

- 6.8 The Special Visitors Order provides for relief from customs duty as well as excise duty and VAT. Part 1 TCTA provides for a new duty of customs, to be known as import duty, to be charged in place of EU customs duty. A separate instrument will make provision for the equivalent reliefs for import duty.

## **7. Policy background**

### *What is being done and why?*

- 7.1 In order to prepare for the event that the UK withdraws from the EU without a negotiated arrangement, it is necessary to ensure that the UK has a standalone customs regime and VAT and excise regimes operate as required on EU exit. The changes in this instrument are part of that.
- 7.2 The Goods Permanently Imported Order provides relief from VAT and any excise duty for:-
- private individuals who import into the UK their personal property on moving home to the UK;
  - those who import wedding gifts for an individual who will reside in the UK following their marriage;
  - students (intending to study in the UK) who import their personal property and necessary study equipment;
  - the import of honorary decorations or awards given to a UK citizen by a foreign government or awarded in a foreign country;
  - the import of gifts received by official visitors in a foreign country or brought into the UK by official visitors to the UK representing a foreign country; and
  - the import of inherited property.
- 7.3 This instrument makes consequential amendments as a result of the UK exiting the EU. It amends the relief so that it applies to eligible goods imported from any country outside the UK. This means eligible goods imported from EU member States will be treated the same as goods imported from the rest of the world.
- 7.4 The Special Visitors Order provides relief from VAT and any duty for:-
- diplomats and other officials on motor cars manufactured in the EU (excluding the UK) or European Free Trade Association (EFTA);
  - diplomats and other officials on tobacco and alcohol beverages removed from a warehouse;

- visiting forces on motor cars manufactured in the EU (including the UK) or EFTA;
- visiting forces who import or remove from a warehouse, any goods; and
- visiting forces who receive a gift of goods from outside the UK other than tobacco and alcoholic beverages

7.5 This instrument makes consequential amendments as a result of the UK exiting the EU and the associated abolition of acquisition tax and extension of import VAT. It ensures that eligible goods entering the UK from EU member States or manufactured in the EU or EFTA will continue to be relieved from VAT (and duty as appropriate) following EU exit as they are currently. These changes ensure the relief will continue to apply as it did before the UK's exit from the EU.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the UK from the EU as it, and other legislation made under TCTA, will ensure that the UK's VAT regime operates as required after EU exit.

## **9. Consolidation**

9.1 This instrument makes amendments to two existing Orders. There are no plans to consolidate these.

## **10. Consultation outcome**

No consultation has been carried out as these are consequential changes made as a result of the TCTA or are otherwise in connection with the withdrawal of the UK from the EU.

## **11. Guidance**

11.1 In the event of a "No Deal" outcome, the reliefs provided for would apply to goods being imported from the EU in the same way as they apply to goods imported from the rest of the world. There is already guidance on this on [www.gov.uk](http://www.gov.uk). This will be updated where necessary and will be available prior to commencement of this instrument.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies because these reliefs are being maintained after EU exit.

12.2 There is no, or no significant, impact on the public sector.

12.3 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>

**13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses. It applies to imports by individuals.

**14. Monitoring & review**

- 14.1 The measure will be kept under review through communication with affected groups.
- 14.2 The instrument does not include a statutory review clause because it relates to tax and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

**15. Contact**

- 15.1 John Egerton at the HMRC Telephone: 03000 585703 or email: [john.egerton@hmrc.gsi.gov.uk](mailto:john.egerton@hmrc.gsi.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Eileen Patching, Deputy Director VAT Principles and Risk, Customs and Indirect Tax Directorate at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Mel Stride MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.