

2020 No. 1545

EXITING THE EUROPEAN UNION

VALUE ADDED TAX

The Value Added Tax (Miscellaneous Amendments, Northern Ireland Protocol and Savings and Transitional Provisions) (EU Exit) Regulations 2020

Made - - - - 18th December 2020

Laid before the House of Commons 21st December 2020

Coming into force in accordance with regulation 1

The Treasury make these Regulations in exercise of the powers conferred by sections 51(1)(a) and (3) and 52(2) of the Taxation (Cross-border Trade) Act 2018(a).

In accordance with section 51(1) of that Act, 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 provision in relation to value added tax, including to make such provision as might be made by Act of Parliament. 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 EU for these Regulations to come into force on such day or days as the Treasury may by regulations under section 52 of that Act appoint.

Part 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Miscellaneous Amendments, Northern Ireland Protocol and Savings and Transitional Provisions) (EU Exit) Regulations 2020 and come into force on such day as the Treasury may by regulations under section 52 of the Taxation (Cross-border Trade) Act 2018 appoint.

(a) 2018 c. 22 (“TCTA”); 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.

Part 2

Amendment of secondary legislation relating to value added tax

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

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

(2) After article 3 insert—

“Application to importations into Northern Ireland

3A.—(1) This article applies where goods are imported into the United Kingdom as a result of their entry into Northern Ireland(b).

(2) Where this article applies this Order has effect with the following modifications—

(a) article 2(1) is to be read as if the following definitions were substituted for their equivalents —

““abroad” means a place outside Northern Ireland and the member States;”;

““exported” means exported to a place outside Northern Ireland and the member States, and “exportation” shall be construed accordingly;”;

““sent” means sent from a place outside Northern Ireland and the member States;”;

(b) article 2(2) does not apply and instead references to a heading or sub-heading are to be read as references to a heading or sub-heading of the Combined Nomenclature of the European Union which is contained in Commission Implementing Regulation (EU) 2019/1776 of 9 October 2019 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff(c) as it has effect in Northern Ireland as a result of section 7A of the European Union (Withdrawal) Act 2020(d);

(c) article 2(5) does not apply and instead, except where it appears in Note (3) to Group 7 of Schedule 2 and Items 3 and 4 of Group 6 of Schedule 2, references to “United Kingdom” are to be read as references to “member States”;

(d) Note 2 of Group 5 of Schedule 2 does not apply and instead Item 3 of that Group applies only where the goods fulfil the conditions laid down under or by virtue of Article 53 of Council Regulation (EC) No. 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty(e) as it has effect in Northern Ireland as a result of section 7A of the European Union (Withdrawal) Act 2020;

(e) in Group 6 of Schedule 2—

(i) in Items 3 and 4, for “United Kingdom” read “one or more member States”;
and

(ii) in Note 5, for “HM Treasury” read “the Commission of the European Union”.

(a) S.I. 1984/746. Amended by S.I. 1987/2108, 1988/1193, 1988/2212, 1992/3120, section 77(1) of the Finance Act 2011 (c. 11), section 199 of the Finance Act 2012 (c. 14), S.I. 2011/1043, 2014/2364, 2018/1376, 2019/59 and paragraph 18 of Schedule 3 to the Taxation (Post-transition Period) Act 2020 (c. 26) (“TPTPA”). Paragraph 28 of Schedule 3 to TPTPA also inserts a new Schedule 9ZC into the Value Added Tax Act 1994 (c.23; “VATA”) which modifies Schedule 2 to S.I. 1984/746 (see Part 2 of the new Schedule 9ZC). S.I. 2018/1376 is revoked by S.I. 2020/1495. S.I. 2019/59 is not yet in force and is amended by this instrument.

(b) Paragraph 3(5) of Schedule 9ZB to VATA (which was inserted by paragraph 2 of Schedule 2 to TPTPA) provides that references to importation are to be read as including removal of goods from Great Britain to Northern Ireland. Paragraph 32 of that Schedule makes an equivalent provision to goods removed to Northern Ireland from the Isle of Man.

(c) OJ No. L 280, 31.10.2019, p 1.

(d) 2018; c. 16. Section 7A was inserted by section 5 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(e) OJ No. L 324, 10.12.2009, p 23.

(3) The modifications provided for in this article are subject to the modifications provided for in paragraph 5 of Schedule 9ZC to the Value Added Tax Act 1994.

3B.—(1) This article applies where goods are imported pursuant to paragraph 3(2) of Schedule 9ZB to the Value Added Tax Act 1994.

(2) Where this article applies this Order has effect with the following modifications—

(a) article 2(1) is to be read as if the following definitions were substituted for their equivalents—

““abroad” means a place outside Great Britain;”;

““exported” means exported to a place outside Great Britain, and “exported” shall be construed accordingly;”;

““sent” means sent from a place outside Great Britain;”;

(b) article 2(5) does not apply and instead, except where it appears in Note (3) to Group 7 of Schedule 2, for “United Kingdom” read “Great Britain”.

Amendment of the Value Added Tax (Removal of Goods) Order 1992

3. The Value Added Tax (Removal of Goods) Order 1992(a) is amended as follows.

4. In article 2—

(a) in the definition of “the Act”, for “1983” substitute “1994”;

(b) after that definition insert—

““departure country” means the member State or Northern Ireland (as the case may be) from which the goods mentioned in paragraph 30 of Schedule 9ZB to the Act are removed;

““destination country” means the member State or Northern Ireland (as the case may be) to which the goods mentioned in paragraph 30 of Schedule 9ZB to the Act are removed;”;

(c) omit the definitions of “the member State of arrival” and “the member State of dispatch”;

(d) in the definition of “the owner” after “the person” insert “referred to in paragraph 30(1) of Schedule 9ZB to the Act”;

(e) omit the definition of “registered”;

(f) in the definition of “temporary importation relief” —

(i) after “means relief” insert “under the temporary admission procedure provided for in Union customs legislation”, and

(ii) for the words from “the European Union(b)” to the end substitute “Northern Ireland or a member State;”;

(g) after that definition insert—

““Union customs legislation” has the same meaning as in paragraph 1(8) of Schedule 9ZB to the Act.”.

5. In article 3, for “a member State” substitute “Northern Ireland or a member State (as the case may be)”.

6. In article 4—

(a) for “paragraph 5A of Schedule 2” substitute “paragraph 30(1) and (2) of Schedule 9ZB”;

(b) in paragraph (a) —

(a) S.I. 1992/3111. Amended by S.I. 2012/2953 and revoked by S.I. 2019/59 which also revoked S.I. 2012/2953. The provisions revoking S.I. 1992/3111 and S.I. 2012/2953 have not been commenced and are now omitted by this instrument.

(b) “European Union” was substituted for “Community” by S.I. 2011/1043.

- (i) for “in a member State” substitute “in a place”,
- (ii) for “member State of dispatch” substitute “departure country”, and
- (iii) for “section 6(2A), (2B) or (2C) of” substitute “section 7(3) of, or paragraph 29 of Schedule 9ZB to,”;
- (c) in paragraph (b) —
 - (i) for “member State of dispatch” substitute “departure country”, and
 - (ii) for “1992” substitute “2004”;
- (d) in paragraph (c), for “section 16(6) or (7) of” substitute “section 30(6) to (8) of, or paragraph 17(3) of Schedule 9ZA(a) to,”;
- (e) in paragraph (e) —
 - (i) in sub-paragraph (i) —
 - (aa) for “to another member State” substitute “to a place in the destination country”, and
 - (bb) for “in that member State” substitute “in that place”, and
 - (ii) in sub-paragraph (ii) for “member State of dispatch” substitute “departure country”;
- (f) in paragraph (f) —
 - (i) in sub-paragraph (i) —
 - (aa) for “member State of dispatch” substitute “departure country”, and
 - (bb) for “member State of arrival” substitute “destination country”, and
 - (ii) in sub-paragraph (iv), for “member State of dispatch” substitute “departure country”;
- (g) in paragraph (g) —
 - (i) in sub-paragraph (i) after “the member States” insert “and Northern Ireland”;
 - (ii) for sub-paragraph (ii) substitute—
 - “(ii) the owner intends, before the end of the period of two years beginning with the day on which the goods were removed, to—
 - (aa) export the goods to a place outside the EU and Northern Ireland,
 - (bb) remove the goods from Northern Ireland to Great Britain, or
 - (cc) remove the goods to a place in Northern Ireland or a member State (as the case may be) other than the destination country;”.

7. In article 5, for “paragraph 5A of Schedule 2” substitute “paragraph 30(1) and (2) of Schedule 9ZB”.

8. Omit the Schedule.

Amendment of the Value Added Tax (Cars) Order 1992

9. The Value Added Tax (Cars) Order 1992(b) is amended as follows.

10. In article 2, after paragraph (1) insert—

“(1A) In this Order a reference to the importation of goods is to be read as including a reference to the acquisition of goods in Northern Ireland from a member State, and references to goods being imported, or tax being charged on an importation, are to be construed accordingly.”.

(a) Schedule 9ZA to VATA was inserted by paragraph 2 of Schedule 2 to TPTPA.

(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, 2006/874 and 2019/59. The amendments made by the last-named instrument are not yet in force and are partly omitted by this instrument.

11. In article 8 (relief for second hand motor cars)—

(1) in paragraph (2)(b), at the end insert “or a corresponding provision of the law of a member State where the motor car is removed to Northern Ireland”; and

(2) in paragraph (3), after sub-paragraph (c) insert—

“(e) the supply by any person of a used motor car if the person took possession of that motor car in Great Britain, or the Isle of Man, and it is removed to Northern Ireland.”.

12. After article 8 insert—

“Relief for second-hand motor cars removed from Northern Ireland to Great Britain

8A. Article 8 has effect as if in paragraph (1)—

(1) after “in any of the circumstances set out in paragraph (2) below” there were inserted “and the supply involves the removal of a motor car from Northern Ireland to Great Britain”; and

(2) for “VAT chargeable on the supply” there were substituted “VAT chargeable on the removal”.”.

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

13. The Value Added Tax (Supply of Temporarily Imported Goods) Order 1992(a) is amended as follows.

14. In article 2(1) —

(a) after “temporary admission procedure” insert “in Great Britain”;

(b) in sub-paragraph (b), for “the United Kingdom” substitute “Great Britain”.

15. After article 2 insert—

“3.—(1) Where goods held under temporary importation arrangements in Northern Ireland are supplied, that supply shall be treated as neither a supply of goods nor a supply of services provided that—

(a) the goods remain eligible for temporary importation arrangements; and

(b) the supply is to a person established outside Northern Ireland and the member States.

(2) In this article—

“goods held under temporary importation arrangements” means goods placed under the temporary admission procedure provided for in Union customs legislation, with total relief from customs duty, whether or not the goods are subject to customs duty.

“Union customs legislation” has the same meaning as in paragraph 1(8) of Schedule 9ZB to the Value Added Tax Act 1994.”.

Amendment of the Value Added Tax (Treatment of Transactions) (No. 2) Order 1992

16.—(1) The Value Added Tax (Treatment of Transactions) (No.2) Order 1992(b) is amended as follows.

(2) In article 2, for paragraph (1) substitute—

(a) S.I. 1992/3130; amended by S.I. 2019/59. The amendments made by that instrument are not yet in force.

(b) S.I. 1992/3132. Revoked by S.I. 2019/59. The provision revoking S.I. 1992/3132 has not been commenced and is now omitted by this instrument.

“(1) Where gold is supplied to a Central Bank by a supplier, and the transaction involves the removal of the gold from a member State to Northern Ireland, the taking possession of the gold by the Central Bank concerned is not to be treated for the purposes of the Value Added Tax Act 1994 as the acquisition in Northern Ireland of goods from a member State.”

Amendment of the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992

17.—(1) The Customs and Excise (Personal Reliefs for Special Visitors) Order 1992(a) is amended as follows.

(2) In article 2 for the definition of “acquisition” substitute—

““acquisition” means an acquisition of goods from a member State within the meaning given in paragraph 3 of Schedule 9ZA to the Value Added Tax Act 1994 and “acquired” shall be construed accordingly;”.

(3) After article 7 insert—

7A. Nothing in this Order affords any relief from VAT charged under paragraph 3(2) of Schedule 9ZB(b) to the Value Added Tax Act 1994.

7B. Article 21 applies in respect of tax where a gift of goods, other than tobacco products or beverages containing alcohol, is made to an entitled person by dispatching them to that person in Northern Ireland from Great Britain or the Isle of Man, as it applies where a gift of goods is made to an entitled person by dispatching them to the person from a place outside the United Kingdom.”.

Amendment of the Customs and Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992

18.—(1) The Customs and Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992(c) is amended as follows.

(2) In article 2—

(a) at the appropriate place insert—

““relevant NI import duty” has the meaning given in paragraph 1(8) of Schedule 9ZB to the Value Added Tax Act 1994”; and

(b) omit the definition of “third country”.

(3) After article 4 insert—

“Modifications for certain movements of goods involving Northern Ireland

4A.—(1) Nothing in this Order affords relief from tax charged under paragraph 3(2) of Schedule 9ZB(d) to the Value Added Tax Act 1994 (“VATA”).

(2) Paragraphs (3) to (13) of this article apply in respect of tax charged under paragraph 3(4) of Schedule 9ZB to VATA and where this article modifies the provisions of this Order, relief shall be afforded from such tax in accordance with such provisions only as modified.

(3) Where under this Order relief from tax applies to a movement of goods from Great Britain or the Isle of Man to Northern Ireland, Great Britain or the Isle of Man shall be

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- (a) S.I. 1992/3156; relevantly amended by S.I. 2005/2114 and S.I. 2019/91. The amendment made by S.I. 2019/91 is not yet in force and some of its provisions are omitted by this instrument.
- (b) Paragraph 3(3) of Schedule 9ZB applies provisions relating to importations to removals between Northern Ireland and Great Britain.
- (c) S.I. 1992/3193; relevantly modified and amended by S.I. 2006/3157, 2006/3158, 2011/1043 and 2019/91. The amendment made by S.I. 2019/91 was from a day to be appointed and has not been commenced, and is partly omitted by this instrument.
- (d) Paragraph 3(2) charges tax on the entry into Great Britain of goods from Northern Ireland but see paragraph 6 for applicable relief.

treated as a country and Northern Ireland as a different country, including for the purposes of determining under this Order whether and when a person is normally resident in Great Britain or the Isle of Man and whether and when a person becomes or intends to become normally resident in Northern Ireland.

(4) Where it is necessary to determine for the purposes of relief under this Order where a person is normally resident, a United Kingdom citizen whose personal ties are in Northern Ireland but whose occupational ties are in Great Britain or the Isle of Man may be treated as normally resident in Great Britain or the Isle of Man if the person has lived there for a period of, or periods together amounting to, at least 185 days in a period of twelve months.

(5) In this Order—

- (a) any reference to a person who has been normally resident in Great Britain or the Isle of Man and who intends to become normally resident in Northern Ireland shall be taken as a reference to a person who intends to comply with the requirements of paragraph (2), (3) or (4) of article 3, as the case may be, for being treated as normally resident in Northern Ireland;
- (b) the date on which a person becomes normally resident in Northern Ireland shall be the date when having given up the person's normal residence in Great Britain or the Isle of Man, the person is in Northern Ireland for the purposes of fulfilling such intention as is mentioned in paragraph (a).

(6) Article 6 applies in respect of tax where goods enter Northern Ireland from Great Britain or the Isle of Man as though the reference in that article to the United Kingdom were a reference to Northern Ireland.

(7) Article 8(2) applies as if the expression “declared for relief” refers to the act by which a person applies for relief on entry of goods to Northern Ireland from Great Britain or the Isle of Man or on their removal from another customs procedure, where customs procedure means a customs procedure for the purposes of Union customs legislation as defined in paragraph 1(8) of Schedule 9ZB to the VATA.

(8) Article 9 applies where relief from tax has been afforded subject to an intention of a person in relation to becoming normally resident in Northern Ireland as it applies where relief has been afforded subject to an intention of a person in relation to becoming normally resident in the United Kingdom.

(9) Articles 7, 11, 12, 13, 14, 16 and 17 apply as though references to the United Kingdom were references to Northern Ireland, as though references to importation into the United Kingdom were references to entry to Northern Ireland, as though references to property imported into the United Kingdom were references to property which entered Northern Ireland and as though references to another country were references to Great Britain or the Isle of Man.

(10) For the purposes of affording relief from tax under article 14 a wedding gift shall be treated as if it were liable to relevant NI import duty and valued in accordance with the rules applicable to such duty.

(11) Articles 18 and 19 do not apply in relation to tax charged under paragraph 3(4) of Schedule 9ZB to VATA.

(12) Article 21 applies to a person who has become entitled as legatee to property situated in Great Britain or the Isle of Man and the entry of such property to Northern Ireland as it applies to a person who has become entitled as legatee to property situated in another country and the importation of such property to the United Kingdom, on the following conditions (which apply instead of the conditions in sub-paragraphs (a) to (c) of article 21(1))—

- (a) the person is either—
 - (i) normally resident in Northern Ireland; or
 - (ii) a secondary resident who is not normally resident in Great Britain, the Isle of Man or a country which is not a member State; or

- (iii) an eligible body;
- (b) the person furnishes proof to the officer of the person's entitlement as legatee to the property; and
- (c) save as the Commissioners otherwise allow, the property is imported by or for such person not later than two years from the date on which the person's entitlement as legatee is finally determined.

(13) In paragraph (12)—

“eligible body” means a body solely concerned with carrying on a non-profit making activity and has a business establishment or other fixed establishment in Northern Ireland; and

“secondary resident” means a person who, without being normally resident in Northern Ireland has a home situated in Northern Ireland which the person owns or is renting for at least twelve months.

(14) Paragraphs (15) to (20) of this article apply in respect of tax charged on the importation of goods into the United Kingdom as a result of their entry to Northern Ireland from a country other than Great Britain or the Isle of Man, and where those paragraphs modify the provisions of this Order, relief shall be afforded from such tax in accordance with such provisions only as modified.

(15) Northern Ireland shall be treated as a country for the purposes of determining under this Order whether and when a person becomes or intends to become normally resident in Northern Ireland.

(16) Where it is necessary to determine for the purposes of relief under this Order where a person is normally resident, a United Kingdom citizen whose personal ties are in Northern Ireland but whose occupational ties are in Great Britain, the Isle of Man or a country which is not a member State may be treated as normally resident in the country of his occupational ties if the person has lived there for a period of, or periods together amounting to, at least 185 days in a period of twelve months.

(17) Articles 4, 6, 7, 11, 12, 13, 14, 16, 17, 18 and 19 apply as though references to the United Kingdom were references to Northern Ireland, as though references to importation into the United Kingdom were references to entry to Northern Ireland, as though references to property imported into the United Kingdom were references to property which entered Northern Ireland and as though references to another country mean a country other than Great Britain or the Isle of Man and other than a member State.

(18) Article 8(2) applies as if the expression “declared for relief” refers to the act by which a person applies for relief on entry of goods to Northern Ireland, where customs procedure means a customs procedure for the purposes of Union customs legislation as defined in paragraph 1(8) of Schedule 9ZB to VATA.

(19) For the purposes of affording relief from tax under article 14 a wedding gift shall be treated as if it were liable to relevant NI import duty and valued in accordance with the rules applicable to such duty.

(20) Article 21 applies to a person who has become entitled as legatee to property situated in Great Britain, the Isle of Man or a country which is not a member State and the entry of such property to Northern Ireland as it applies to a person who has become entitled as legatee to property situated in another country and the importation of such property to the United Kingdom on the conditions set out in sub-paragraphs (a) to (c) of article 4A(12) which apply instead of the conditions in sub-paragraphs (a) to (c) of article 21(1).”.

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

19. The Value Added Tax (Input Tax) Order 1992(a) is amended as follows.

(a) S.I. 1992/3222; amended by S.I. 1995/281, 1995/1267, 1995/1666, 1998/2767, 1999/2930, 1999/3118, 2009/217, 2011/1071 and 2019/59. The amendment made by the last-named instrument is not yet in force.

20. In article 2—

- (a) in the definition of “motor dealer”, after “supplies of,” insert “or acquiring in Northern Ireland from a member State”;
- (b) in the definition of “stock in trade”—
 - (i) after “article 7(2A) below” insert “or paragraph 4(3) of Schedule 2 to this Order”,
 - (ii) in paragraph (a), after “supplied to” insert “or acquired in Northern Ireland from a member State”, and
 - (iii) in paragraph (b)(ii), after “their supply” insert “, acquisition in Northern Ireland from a member State”.

21. In article 3, for “the Schedule” substitute “Schedule 1”.

22. After article 7 insert—

“Application of this Order in relation to Northern Ireland

8.—(1) In this Order, references to VAT charged on the importation of goods includes VAT charged under the following provisions of Schedule 9ZB (goods removed to or from Northern Ireland etc.) to the Act—

- (a) paragraph 1(3);
- (b) paragraph 3(2); and
- (c) paragraph 3(4).

(2) Schedule 2 to this Order makes separate provision for the disallowance of input tax in relation to acquisitions in Northern Ireland from the EU.”.

23. The Schedule to this Order becomes Schedule 1 and its heading is amended accordingly.

24. After that Schedule insert—

“SCHEDULE 2

Art 8(2)

Disallowance of input tax in relation to acquisitions in Northern Ireland from the EU

1.—(1) In this Schedule “NI acquisition VAT” means VAT charged by paragraph 1(3) of Schedule 9ZA to the Act.

(2) NI acquisition VAT charged on the acquisition in Northern Ireland of such goods from a member State as are described in sub-paragraph (3) which are acquired by a taxable person in the circumstances described in sub-paragraph (4) is excluded from any credit under section 25 of the Act.

(3) The goods referred to in sub-paragraph (2) are—

- (a) works of art, antiques and collectors’ items, and
- (b) second-hand goods.

(4) The circumstances of the acquisition from a member State referred to in sub-paragraph (2) are where—

- (a) the goods are acquired in connection with a supply which, by virtue of the law of the member State in which the supply took place, VAT was chargeable on the profit margin; and
- (b) if the goods are a work of art, they are acquired from a member State from its creator or the creator’s successor in title.

(5) Sub-paragraph (2) only excludes from credit NI acquisition VAT on an acquisition of goods by a taxable person in the circumstances set out in sub-paragraph (4)(b) if the taxable person—

- (a) has opted to account for VAT chargeable on the supplies of such goods on the profit margin in accordance with the provisions of an Order made under section 50A of the Act; and
- (b) has not elected, in accordance with such an Order, to account for VAT chargeable on the supply of the goods by reference to its value.

2.—(1) NI acquisition VAT charged on the acquisition in Northern Ireland of goods from a member State by a taxable person is excluded from any credit under section 25 of the Act, where the goods are used or are to be used by the taxable person for the purposes of business entertainment unless the entertainment is provided for an overseas customer of the taxable person and is of a kind and on a scale which is reasonable, having regard to all the circumstances.

(2) For the purposes of this paragraph, “business entertainment” means entertainment including hospitality of any kind provided by a taxable person in connection with a business carried on by that person, but does not include the provision of any such entertainment for either or both—

- (a) employees of the taxable person; and
- (b) if the taxable person is a body corporate, its directors or persons otherwise engaged in its management.

(3) But the exception in relation to the provision of entertainment for persons such as are mentioned in sub-paragraph (2)(a) and (b) does not apply where the provision of the entertainment is incidental to its provision for others.

(4) For the purposes of this paragraph, “overseas customer”, in relation to a taxable person, means—

- (a) any person who is not ordinarily resident nor carrying on a business in the United Kingdom or the Isle of Man and avails himself or herself, or may be expected to avail himself or herself, in the course of a business carried on by that person outside the United Kingdom and the Isle of Man, of any goods or services the supply of which forms part of the taxable person’s business; and
- (b) any person who is not ordinarily resident in the United Kingdom or the Isle of Man and is acting, in relation to such goods or services, on behalf of an overseas customer as defined in paragraph (a) or on behalf of any government or public authority outside the United Kingdom and the Isle of Man.

3. Where a taxable person constructing or effecting any works to a building of a description in Schedule 8 to the Act for the purpose of making a grant of a major interest in it (or any part of it or its site), incorporates goods other than building materials in any part of the building or its site, NI acquisition VAT charged on the acquisition in Northern Ireland of such goods from a member State by the taxable person is excluded from any credit under section 25 of the Act.

4.—(1) NI acquisition VAT charged on the acquisition in Northern Ireland of a motor car from a member State is excluded from any credit under section 25 of the Act.

(2) Sub-paragraph (1) does not apply where the motor car—

- (a) is a qualifying motor car which is acquired in Northern Ireland from a member State by a taxable person and the relevant condition is satisfied;
- (b) forms part of the stock in trade of a motor manufacturer or a motor dealer;
- (c) is acquired in Northern Ireland from a member State by a taxable person whose only taxable supplies are concerned with the letting of motor cars on hire to another taxable person whose business consists predominantly of making supplies of a description falling within item 14 of Group 12 of Schedule 8 to the Act; or

- (d) is unused and is supplied on a letting on hire to a taxable person whose business consists predominantly of making supplies of a description falling within item 14 of Group 12 of Schedule 8 to the Act, by a taxable person whose only taxable supplies are concerned with the letting on hire of motor cars to such a taxable person.

(3) For the purposes of this paragraph a motor car is a qualifying motor car if it has never been supplied, acquired from a member State (under the provisions of the Act applicable at the time) or imported, in circumstances in which the VAT on that supply, acquisition or importation was wholly excluded from credit as input tax by virtue of the provisions of this Order.

(4) For the purposes of paragraph 4(2)(a), the relevant condition is that the motor car is acquired by a taxable person who intends to use the motor car—

- (a) exclusively for the purposes of a business carried on by that person; or
- (b) primarily for a relevant purpose.

(5) For the purposes of sub-paragraph (4)(a), a taxable person is not to be regarded as intending to use a motor car exclusively for the purposes of a business carried on by that person if that person intends—

- (a) to let it on hire to any person either for no consideration or for a consideration which is less than that which would be payable in money if it were a commercial transaction conducted at arm's length; or
- (b) to make it available (otherwise than by letting it on hire) to any person (including, where the taxable person is an individual, to that taxable person or, where the taxable person is a partnership, a partner) for private use, whether or not for a consideration.

(6) For the purposes of sub-paragraph (4)(b), a relevant purpose is any of the following—

- (a) to provide it on hire with the services of a driver for the purpose of carrying passengers;
- (b) to provide it for self-drive hire;
- (c) to use it as a vehicle in which instruction in the driving of a motor car is to be given by that person.

(7) In paragraph (6)(b) “self-drive hire” means hire where the hirer is the person normally expected to drive the motor car and the period of hire to each hirer, together with the period of hire of any other motor car expected to be hired to him by the taxable person—

- (a) will normally be less than 30 consecutive days; and
- (b) will normally be less than 90 days in any period of 12 months.”.

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

25.—(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) and (b), 14, 15(a) and (b), omit “excluding the tax on goods imported from countries other than member States,”.

(3) After article 2(2) insert—

“(3) The last reference in paragraph (2) to the “total amount of tax” includes only tax that is required to be, or has been, accounted for on a return for a prescribed accounting period.”

(4) In article 11, after paragraph (1) insert—

(a) S.I. 1993/2001; amended by S.I. 1995/291, 1996/1196, 2007/1420, 2011/21 and 2019/59. The amendments made by the last-named instrument are not yet in force.

“(1A) The reference in paragraph (1) to the “total amount of tax” includes only tax that is required to be, or has been, accounted for on a return for a prescribed accounting period.”.

(5) In article 12—

(a) the existing text becomes paragraph (1);

(b) after that paragraph insert—

“(2) The reference in paragraph (1) to the “total amount of tax” includes only tax that is required to be, or has been, accounted for on a return for a prescribed accounting period.”.

(6) In article 12A, after paragraph (1) insert —

“(1A) The reference in paragraph (1) to “liability to VAT for the preceding month” includes only tax that is required to be, or has been, accounted for on a return for a prescribed accounting period.”.

(7) In article 13—

(a) the existing text becomes paragraph (1);

(b) after that paragraph insert—

“(2) In paragraph (1), the first reference to the “total amount of tax” in each of subparagraphs (a) and (b) includes only tax that is required to be, or has been, accounted for on a return for a prescribed accounting period.”.

(8) In article 14—

(a) the existing text becomes paragraph (1);

(b) after that paragraph insert—

“(2) The first reference to the “total amount of tax” in paragraph (1) includes only tax that is required to be, or has been, accounted for on a return for a prescribed accounting period.”.

(9) In article 15—

(a) the existing text becomes paragraph (1);

(b) after that paragraph insert—

“(2) In paragraph (1), the references to the “total amount of tax” in each of subparagraphs (a) and (b) includes only tax that is required to be, or has been, accounted for on a return for a prescribed accounting period.”.

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

26. The Value Added Tax (Treatment of Transactions) Order 1995(a) is amended as follows.

27. For article 2 substitute—

“2. In this Order—

“temporary admission with full customs duty relief” means—

(a) in Great Britain, the temporary admission procedure under Part 1 of the Taxation (Cross-border Trade) Act 2018(b), 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(c);

(b) in Northern Ireland, the customs procedure for temporary importation with total relief from import duties provided for in Articles 250, 251 and 253 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October

(a) S.I. 1995/958; relevantly amended by S.I. 2006/2187 and 2019/59. The amendment made by the latter instrument is not in force and is revoked in part by this instrument.

(b) 2018 c. 22. Part 1 is amended by section 2 of TPTPA.

(c) S.I. 2018/1249; amended by S.I. 2019/108, 2019/326, 2019/486, 2019/1215 and 2020/1088.

2013 laying down the Union Customs Code as it has effect in Northern Ireland as a result of section 7A of the European Union (Withdrawal) Act 2020(a);

“work of art” has the same meaning as in section 21 of the Value Added Tax Act 1994(b).”.

28. In article 3 after paragraph (1)(b), for the words from “temporary importation” to “No 2913/92” substitute “temporary admission with full customs duty relief”.

29. In article 4, for paragraph (3) substitute—

“(3) That procedure is the temporary admission with full customs duty relief procedure.”.

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

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

(2) In articles 7, 8 and 12, for “another member State” in each place it occurs substitute “a member State”.

(3) In article 7—

(a) after “acquisition of goods” insert “in Northern Ireland”;

(b) for “the United Kingdom” substitute “Northern Ireland”.

(4) In article 8 for “the United Kingdom” substitute “Northern Ireland”.

(5) In article 12 (relief for certain goods)—

(a) at the start of paragraph (3)(a) insert “subject to paragraph (aa),”;

(b) at the end of paragraph (3)(a)(ii) insert “where the goods are removed to Northern Ireland”;

(c) after paragraph (3)(a) insert—

“(aa) but the circumstances in sub-paragraph (a) do not apply if the person took possession of the goods in Great Britain or the Isle of Man and the goods are removed to Northern Ireland.”;

(d) in paragraph (3)(b), for the words from “the customs procedure for temporary importation” to the end substitute—

“—

(i) 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(d);

(ii) the customs procedure for temporary importation with total relief from import duties provided for in Articles 250, 251 and 253 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code as it has effect in Northern Ireland as a result of section 7A of the European Union (Withdrawal) Act 2020(e).”;

(e) in paragraph (5)(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)(i) or the customs procedure for temporary importation mentioned in article 12(3)(b)(ii) as the case may be”.

(6) After article 12 insert—

(a) OJ No. L 269, 10.10.2013, p.1. There are amending instruments, but none is relevant.

(b) Relevantly amended by section 12 of the Finance Act 1999 (c. 16) and S.I. 2009/730.

(c) S.I. 1995/1268; relevant amending instruments are S.I. 1997/1616, 1998/760, 2001/3753, 2002/1503, 2006/2187 and 2019/59. The amendments made by the last-named instrument are not yet in force and are omitted by this instrument.

(d) S.I. 2018/1249; relevantly amended by S.I. 2019/486. There are other amending instruments, but none is relevant.

(e) OJ No. L 269, 10.10.2013, p. 1. There are amending instruments, but none is relevant.

“Relief for certain goods removed from Northern Ireland to Great Britain

12A. Article 12 has effect as if in paragraph (1)—

- (a) after “in any of the circumstances set out in paragraph (3) below,” there were inserted “and the supply involves the removal of the goods from Northern Ireland to Great Britain,”; and
- (b) for “VAT chargeable on the supply” there were substituted “VAT chargeable on the removal”.

Amendment of the Value Added Tax Regulations 1995

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

Part 1 (preliminary)

32. In regulation 2(b) (interpretation – general)—

- (a) in paragraph (1)—
 - (i) in the definition of “alphabetical code”—
 - (aa) for “member State” substitute “relevant territory”;
 - (bb) in the entry for the United Kingdom, for “GB” substitute “XI”;
 - (ii) in the definition of “fiscal or other warehousing regime”, at the end insert “, and “Northern Ireland fiscal or other Northern Ireland warehousing regime” means “Northern Ireland fiscal warehousing regime or Northern Ireland warehousing regime”;
 - (iii) after that definition insert—
 - ““identified for the purposes of VAT in Northern Ireland” has the meaning given by paragraph 7 of Schedule 9ZA(c) to the Act;
 - “Northern Ireland fiscal warehouse” and “Northern Ireland fiscal warehousing regime” have the meanings given by sub-paragraphs (1) and (2) respectively of paragraph 25 (supplementary provision) of Schedule 9ZB(d) to the Act;
 - “Northern Ireland warehouse” and “Northern Ireland warehousing regime” have the meanings given by sub-paragraphs (11) and (12) respectively of paragraph 16 (place and time of supply: Northern Ireland warehouses) of Schedule 9ZB to the Act;”;
 - (iv) in the definition of “registered person”, for “or 3A” substitute “3A or 9ZC”;
 - (v) after the definition of “registration number” insert—
 - ““relevant territory” means, except where otherwise provided, a member State or the United Kingdom;”;
- (b) after paragraph (3) insert—
 - “(4) A reference in these Regulations to “another member State” is to be read as a reference to “a member State”, and “other member State” and “other member States” are to be interpreted accordingly.”.

(a) S.I. 1995/2518; see footnotes below for relevant amending instruments.

(b) Relevantly amended by S.I. 1996/1250, 2004/1082, 2006/3292, 2019/59, 2019/60. The amendment made by S.I. 2019/59 has not been commenced and is omitted by this instrument. The amendment made by S.I. 2019/60 is also not yet in force.

(c) Schedule 9ZA was inserted into VATA by paragraph 2 of Schedule 2 to TPTPA.

(d) Schedule 9ZB was inserted into VATA by paragraph 2 of Schedule 2 to TPTPA.

Part 2 (registration and provisions for special cases)

33. In regulation 5(a) (registration and notification)—

- (a) in paragraph (1) after “Schedule 3A” insert “, or paragraph 8 of Schedule 9ZC(b)”;
- (b) in paragraph (2) after “Schedule 3A” insert “, or paragraph 10 of Schedule 9ZC”;
- (c) in the opening words of paragraph (3), after “Schedule 3A” insert “, or paragraph 10 of Schedule 9ZC”;
- (d) in sub-paragraph (f) for “Schedule.” substitute “Schedule; or”;
- (e) after sub-paragraph (f) insert—
 - “(g) where paragraph 10(1) of Schedule 9ZC to the Act applies, the date on which the person ceased to be registrable under the Act; or
 - (h) where paragraph 10(2) of Schedule 9ZC to the Act applies, the date on which the person made or facilitated a relevant supply within that paragraph.”.

Part 3 (VAT invoices and other invoicing requirements)

34. In regulation 13(c) (obligation to provide a VAT invoice)—

- (a) for paragraph (1) substitute—

“(1) Save as otherwise provided in these Regulations, where a registered person (P)—

 - (a) makes a taxable supply in the United Kingdom to a taxable person, or
 - (b) makes a supply of goods to a person in a member State for the purpose of any business activity carried out by that person and P is identified for the purposes of VAT in Northern Ireland; or
 - (c) receives a payment on account in respect of a supply of goods that P has made or intends to make from a person in a member State and P is identified for the purposes of VAT in Northern Ireland,

P must, unless paragraph (1ZA) applies, provide such persons as are mentioned above with a VAT invoice.”;
- (b) after that paragraph insert—

“(1ZA) This paragraph applies where P, in relation to the description of supply mentioned in paragraph (1), is entitled to issue and issues a VAT invoice pursuant to section 18C(1)(d) of the Act and regulation 145D(1) in relation to the supply by P of specified services performed on or in relation to goods while those goods are subject to a fiscal or other warehousing regime, or to a Northern Ireland fiscal or other Northern Ireland warehousing regime.”;
- (c) for paragraph (3E) substitute—

“(3E) Where a customer (C) in a member State provides a document to C in respect of a supply of goods to C by a registered person who is identified for the purposes of VAT in Northern Ireland, that document is to be treated as the VAT invoice required to be provided by the supplier under paragraph (1)(b) or (c) if it complies with the conditions set out in paragraph (3A).”.

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- (a) Relevantly amended by S.I. 2000/794, 2004/1675, 2012/1899 and 2019/59. The amendments made by the last-named instrument are not yet in force and are omitted by this instrument.
 - (b) Schedule 9ZC was inserted into VATA by paragraph 28 of Schedule 3 to TPTPA.
 - (c) Relevantly amended by S.I. 1996/1250, 2003/3220, 2007/2085, 2012/2951, 2019/59 and paragraph 20 of Schedule 3 to TPTPA. The amendments made by S.I. 2019/59 are not yet in force and are omitted by this instrument. Section 18C of VATA applies to a Northern Ireland fiscal warehousing regime or Northern Ireland warehousing regime by virtue of paragraph 21 of Schedule 9ZB to VATA.

35. In regulation 14(2)(a) (contents of VAT invoice)—

- (a) in the opening words, after “registered person” insert “who is identified for the purposes of VAT in Northern Ireland”;
- (b) in sub-paragraph (b), for “GB” substitute “XI”;
- (c) in sub-paragraph (c)—
 - (i) omit “or services”; and
 - (ii) for “member State” substitute “relevant territory”;
- (d) in sub-paragraph (f), omit “or the extent of the services”.

36. In regulation 16(1)(b) (retailers’ invoices), after “£250 and” insert “, where the retailer is identified for the purposes of VAT in Northern Ireland,”.

37. In regulation 16A(c) (simplified invoices), after “£250 and” insert “, where the registered person is identified for the purposes of VAT in Northern Ireland,”.

Part 4 (EC Sales statements)

38. In regulation 21(1)(d) (interpretation)—

- (a) omit the definition of “EU supply of goods”;
- (b) omit the definition of “EU supply of services”;
- (c) after the definition of “first relevant figure” insert—

““new means of transport” has the same meaning as in paragraph 83(1) and (2) of Schedule 9ZA(e) to the Act”;
- (d) omit the definition of “registered in another member State”;
- (e) at the appropriate place insert—

““relevant supply of goods” means a supply falling within regulation 22(1) and “relevant supplies of goods” shall be construed accordingly;”;
- (f) after the definition of “NMT supply of goods” insert —

““registered in a member State” means registered in accordance with the measures adopted by the competent authority in a member State for the purposes of the EU common system of VAT and “registered in that member State”, “registered in another member State” and “registered in member States” shall be construed accordingly;”;
- (g) for the definition of “value” substitute—

““value” in the phrases “value of relevant supplies”, “value of the taxable person’s taxable supplies” and “value of the taxable person’s supplies” means the consideration for the supplies and includes the costs of any freight transport services and services ancillary to the transport of the goods charged by the supplier to the customer;”;
- (h) after paragraph (1) insert—

“(1A) For the purposes of this Part—

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- (a) Relevantly amended by S.I. 2003/3220, 2007/2085 and 2019/59. The amendment made by the last-named instrument has not been commenced and is omitted by this instrument.
 - (b) Relevantly amended by S.I. 2003/3220 and 2019/59. The amendment made by the latter instrument has not been commenced and is omitted by this instrument.
 - (c) Relevantly amended by S.I. 2012/295 and 2019/59. The amendment made by the latter instrument has not been commenced and is omitted by this instrument.
 - (d) Part 4 was relevantly amended by S.I. 2009/3241, 2012/1899 and 2019/59. The amendment made by the last-named instrument has not been commenced and is omitted by this instrument. Part 4 was also amended by section 80(7) to (11) of the Finance Act 2020 (c.14), and paragraph 7 of Schedule 2 to TPTPA.
 - (e) Schedule 9ZA was inserted by paragraph 2 of Schedule 2 to TPTPA.

- (a) goods are removed from Northern Ireland under call-off stock arrangements if they are removed in circumstances where the conditions in paragraphs (a) to (g) of paragraph 57(1) of Schedule 9ZA to the Act are met,
- (b) references to “the customer” or “the destination territory”, in relation to goods removed from Northern Ireland under call-off stock arrangements, are to be construed in accordance with Part 10 of Schedule 9ZA to the Act, and
- (c) “call-off stock goods”, in relation to a taxable person, means goods that have been removed from Northern Ireland under call-off stock arrangements by or under the directions of the taxable person.”.

39. In regulation 22 (submission of statements) —

- (a) in paragraph (1) —
 - (i) after “taxable person” insert “who is identified for the purposes of VAT in Northern Ireland”; and
 - (ii) in sub-paragraph (a), for the words from “in another member State” to the end substitute “in a member State and those goods were dispatched or transported to that or a different member State, or”;
- (b) in paragraphs (2) to (4), for “EU” in each place it occurs substitute “relevant”;
- (c) in paragraph (5)(a), after “new means of transport” insert “that involved the removal of those goods from Northern Ireland to a member State”;
- (d) in paragraph (6), after “new means of transport” insert “that involved the removal of those goods from Northern Ireland to a member State”.

40. After regulation 22 insert—

“22ZZA.—(1) A taxable person must submit a statement to the Commissioners if any of the following events occurs—

- (a) goods are removed from Northern Ireland under call-off stock arrangements by or under the directions of the taxable person;
- (b) call-off stock goods are returned to Northern Ireland by or under the directions of the taxable person at any time during the period of 12 months beginning with their arrival in the destination territory;
- (c) the taxable person forms an intention to supply call-off stock goods to a person (“the substitute”) other than the customer in circumstances where—
 - (i) the taxable person forms that intention during the period of 12 months beginning with the arrival of the goods in the destination territory, and
 - (ii) the substitute is identified for VAT purposes in accordance with the law of the destination territory.

(2) The statement must—

- (a) be made in the form specified in a notice published by the Commissioners,
- (b) contain, in respect of each event mentioned in paragraph (1) which has occurred within the period in respect of which the statement is made, such information as may from time to time be specified in a notice published by the Commissioners, and
- (c) contain a declaration that the information provided in the statement is true and complete.

(3) Paragraphs (3), (4) and (6) of regulation 22 have effect for the purpose of determining the period in respect of which the statement must be made, but as if—

- (a) in paragraph (3)(a) of that regulation—
 - (i) for “paragraphs (4) to (6)” there were substituted “paragraphs (4) and (6)”, and

(ii) for “the relevant supply of goods is made” there were substituted “the event occurs”;

(c) in paragraph (4)(a) of that regulation, for “the supply is made” there were substituted “the event occurs”, and

(d) in paragraph (6) of that regulation, the reference to paragraph (1) were a reference to paragraph (1) of this regulation.

(4) In determining the period in respect of which the statement must be made, the time at which an event mentioned in paragraph (1)(a) of this regulation is to be taken to occur is the time the goods concerned are removed from Northern Ireland rather than the time the condition mentioned in paragraph (g) of paragraph 57(1) to Schedule 9ZA to the Act is met in respect of the removal.”.

41. Omit regulation 22A.

42. In regulation 22B—

(a) in paragraph (1), for “22A 22A” substitute “22ZZA”;

(b) in paragraphs (2) and (3), for “22 or 22A” substitute “22 or 22ZZA”.

43. In regulation 22C(1), after “new means of transport” insert “which involves the removal of those goods from Northern Ireland to a member State”.

44. The amendments made by regulations 38 to 43 are to be treated for the purposes of the Value Added Tax Act 1994 as if they were made under paragraph 73(1) of Schedule 9ZA to that Act.

Part 5 (accounting payment and records)

45. In regulation 25(a) (making of returns)—

(a) in paragraph (1)(b), for “and 3A” substitute “, 3A and 9ZC”;

(b) in paragraph (4)(b), after “Schedule 3” insert “or Schedule 9ZC”.

46. In regulation 29(2)(b) (claims for input tax)—

(a) in sub-paragraph (d), after “warehouse” insert “or Northern Ireland warehouse”;

(b) in sub-paragraph (e), for “GB” substitute “XI”;

(c) in sub-paragraph (f), for “GB” substitute “XI”.

47. In regulation 31(1)(da)(c) (records), after “regimes,” insert “or Northern Ireland fiscal or other Northern Ireland warehousing regimes,”.

48. In regulation 33(2)(b)(d) (the register of temporary movement of goods from member States), for “another member State” substitute “a different member State”.

49. In regulation 39(2)(e) (calculation of returns), at the end insert “except that the total of the output tax due in that period on acquisitions in Northern Ireland from member States shall be entered instead in the box opposite the legend “VAT due in this period on acquisitions from other EC member States”,”.

(a) Relevantly amended by S.I. 2000/794, 2012/1899 and 2019/59. The amendment made by the last-named instrument is not yet in force and is omitted by this instrument.

(b) Relevantly amended by S.I. 2003/1114 and S.I. 2019/59. The amendment made by the latter S.I. is not in force and is omitted by this instrument.

(c) Relevantly amended by S.I. 1996/1250 and S.I. 2019/59. The amendment made by the latter S.I. is not in force and is omitted by this instrument.

(d) Omitted by S.I. 2019/59 but that amendment is omitted by this instrument.

(e) Relevantly amended by S.I. 2019/60. That instrument has not yet been commenced and is relevantly amended by S.I. 2020/1495.

- 50.** In regulation 40(1)(a) (VAT to be accounted for on returns and payment of VAT)—
- (a) in sub-paragraph (c), after “regime,” insert “or Northern Ireland fiscal warehousing regime,”;
 - (b) in sub-paragraph (d), after “regime” in each place it occurs insert “or Northern Ireland warehousing regime”.

51. In regulation 42(b) (accounting for VAT on the removal of goods), for paragraph (1) substitute—

“(1) This regulation applies—

- (a) where goods have been removed—
 - (i) from Northern Ireland to a member State, or
 - (ii) from a member State to a different Member State or to Northern Ireland; and
- (b) the removal falls within paragraph (f) or (g) of article 4 of the Removal Order.”.

52. In regulation 43(c) (goods removed from a warehousing regime)—

- (a) in paragraph (1), after “warehouse” insert “or Northern Ireland warehouse”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (a)—
 - (aa) after “section 18(4)(b) of” insert “, or paragraph 16(8) of Schedule 9ZB to,” and
 - (bb) after “warehousing regime” insert “or Northern Ireland warehousing regime, as the case may be”, and
 - (ii) in the final words, for “or 18D(2)(a)” to the end substitute “or 18D(2)(a) of, or paragraph 16(8) of Schedule 9ZB to, the Act”.

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

53. In regulation 55C(d) (relevant supplies and purchases)—

- (a) in paragraph (1)(c), omit “from a place outside the member States”;
- (b) in paragraph (6), omit “intra-Community”.

Part 12 (valuation of acquisitions)

54. In regulation 97(1)(e) (valuation of acquisitions)—

- (a) for “the United Kingdom from another member State” substitute “Northern Ireland from a member State”;
- (b) in sub-paragraph (a), for “the United Kingdom” substitute “Northern Ireland”;
- (c) in sub-paragraph (b), for “Economic Community” substitute “EU”.

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- (a) Regulation 40 was substituted by S.I. 1996/1250. It is amended by S.I. 2000/258, 2004/1675, 2007/1418, 2009/2978, 2018/261 and 2019/60. The last-named instrument is not yet in force and the amendment that it makes is partly omitted by this instrument.
 - (b) Regulation 24 (which contains definitions relevant to regulation 42) was amended by S.I. 2019/59 and regulation 42 was revoked by the same instrument. The amendment and revocation made by that instrument have not been commenced and have now been omitted by this instrument.
 - (c) Relevantly amended by S.I. 1996/1250.
 - (d) Inserted by S.I. 2002/1142 and amended by S.I. 2007/1418, 2010/2240 and 2019/59. The amendment made by the last-named instrument is not yet in force and is omitted by this instrument.
 - (e) Relevantly amended by S.I. 2011/1043 and 2019/59. The amendment made by the latter instrument is not yet in force and is omitted by this instrument.

Part 13 (Place of supply)

55. In regulation 98(a) (distance sales from the United Kingdom)—

- (a) in the heading, for “the United Kingdom” substitute “Northern Ireland to the EU”;
- (b) in paragraph (1), for “to another member State” substitute “from Northern Ireland to a member State”.

Part 14 (input tax and partial exemption)

56. In regulation 101(b) (attribution of input tax to taxable supplies) after sub-paragraph (3)(f) insert—

“(g) where a removal of goods is treated as a taxable supply by virtue of paragraph 31B(1) of Schedule 9ZB(c) to the Act, the value of that supply.”.

57. In regulation 102(d) (use of other methods)—

- (a) in paragraph (2) after “regulation 101(3)(a) to (d)” insert “and (g)”;
- (b) for paragraph (2A) substitute—

“(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.”.

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

59. After regulation 109 insert—

“**109A.**—(1) This regulation applies where a taxable person—

- (a) has incurred an amount of input tax in relation to goods which has not been attributed to taxable supplies because the person has used the goods in making either—
 - (i) exempt supplies, or
 - (ii) both taxable supplies and exempt supplies,
- (b) is treated as having made a taxable supply of those goods (“the deemed supply”) in accordance with paragraph 31B of Schedule 9ZB to the Act, and

(a) Regulation 98 was omitted by S.I. 2019/59 but that provision is not yet in force and is omitted by this instrument.

(b) Regulation 101 was relevantly amended by S.I. 2015/1978, 2007/768 and 2009/820.

(c) Paragraph 31B(1) was inserted into Schedule 9ZB by S.I. 2020/1544.

(d) Regulation 102 was amended by S.I. 2005/762, 2007/768, 2010/559, 2015/1978, 2009/820, 2019/408 and 2019/513. The amendment made by the penultimate instrument is not in force and is revoked by this instrument. The last-named instrument is not fully in force.

(e) Regulation 103B was amended by S.I. 2004/3140, 2009/820, 2019/408, 2019/513. The amendment made by the penultimate instrument is not yet in force and is omitted by this instrument.

- (c) the deemed supply is made in a subsequent tax year to the tax year in which the input tax was incurred.

(2) Subject to regulation 110 and where this regulation applies, the Commissioners shall, on receipt of an application made by the taxable person in such form and manner and containing such particulars as they may direct, pay to the person an amount equal to the input tax which has become attributable to the deemed supply in accordance with the method which the person was required to use when the input tax was first attributed.

(3) For the purposes of this regulation any question as to the nature of any supply shall be determined in accordance with the provisions of the Act or any Regulations or Orders made thereunder in force at the time when the input tax was first attributed.”.

Part 16 (importations, exportations and removals)

60. In the heading of Part 16(a) (importations, exportations and removals) after “removals” insert “in respect of Great Britain”.

61. Before regulation 117 insert—

“Application of this Part

116O. This Part applies to importations, exportations and removals in respect of Great Britain.”.

62.—(1) In regulation 117 (interpretation of Part XVI)—

- (a) in paragraph (8), for “the United Kingdom” substitute “Great Britain” in both places.
- (b) insert at the end—

“(12) In regulations 119 and 121D “UK Reliefs document” has the same meaning as in regulation 2 of the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020(b).

(13) Unless otherwise specified, in this Part—

- (a) “importation” means—
 - (i) the importation of goods from outside the United Kingdom (but not the Isle of Man) as a result of their entry into Great Britain; and
 - (ii) the entry of goods into Great Britain following their removal from Northern Ireland,and related expressions are to be interpreted accordingly.
- (b) “export” means—
 - (i) the export of goods from Great Britain to a place outside the United Kingdom (but not the Isle of Man); and
 - (ii) the removal of goods from Great Britain to Northern Ireland,and related expressions are to be interpreted accordingly.”.

63. In regulation 118 (enactments excepted)(c) —

- (a) in the opening words, after “are to apply”, insert “to importations”;

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- (a) Part 16 was amended by S.I. 1995/3147, 1996/210, 1999/438, 2000/258, 2000/634, 2001/630, 2003/1485, 2003/2318, 2004/1082, 2006/587, 2006/3292, 2013/2241, 2013/3211, 2019/60, 2019/513, 2019/1509 and 2020/1412. The amendments made by 2019/60, 2019/513 and 2020/1412 are not yet in force, and some of those made by 2019/513 are omitted by this instrument.
 - (b) S.I. 2020/1431. “UK Reliefs document” is defined at regulation 2 of the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020.
 - (c) Regulation 118 excepts the application of various enactments which apply by virtue of section 16 of VATA. Section 16(1) was substituted by paragraph 13 of Schedule 8 to TCTA. Section 16(1) applies to the entry of goods into Great Britain following their removal from Northern Ireland by virtue of paragraph 3(3) of Schedule 9ZB to VATA which was inserted by Schedule 2 to TPTPA.

(b) after paragraph (c), insert—

“(ca) the Taxation (Cross-border Trade) Act 2018(a)—

- (i) section 16 (value of chargeable goods),
- (ii) section 36 (outward processing procedure),
- (iii) Schedule 2, Part 5 (authorised use procedure), except to the extent that it relates to the matters referred to in regulation 119(2)(a), and
- (iv) Schedule 2, Part 6 (temporary admission procedure), except to the extent that it relates to full relief from a liability to import duty in relation to a temporary admission procedure.”.

64. For regulation 119 (regulations excepted) substitute—

“Regulations excepted

119.—(1) The provision made by or under the following subordinate legislation is excepted from applying to importations—

- (a) regulations 16(4) and (5) and 19(1)(b) of the Excise Warehousing (Etc) Regulations 1988(b) (certain removals from warehouse);
- (b) any regulations made under section 197(2)(f) of the Finance Act 1996(c) (rate of interest on overdue customs duty and on repayments of amounts paid by way of customs duty);
- (c) any regulation made under section 19 of the Taxation (Cross-border Trade) Act 2018 conferring full or partial relief from a liability to import duty; and
- (d) regulations 45 (interest on late payment of import duty) and 68 (interest payable by HMRC) of the Customs (Import Duty) (EU Exit) Regulations 2018(d).

(2) But paragraph (1)(c) does not include the following—

- (a) regulations 32 and 33 (authorised use procedure) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018(e) and regulation 20 of the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020(f) including the authorised use rates document referred to in that regulation, in so far as these regulations relate to relief from import duty in respect of goods admitted into territorial waters—
 - (i) in order to be incorporated into drilling or production platforms as part of the process of constructing, repairing, maintaining, altering or fitting-out of such platforms, or in order to link such platforms to the mainland of the United Kingdom; or
 - (ii) for the fuelling and provisioning of drilling or production platforms;
- (b) regulations 35 to 40 (temporary admission procedure) of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018, in so far as these regulations confer full relief from a liability to import duty in relation to a temporary admission procedure; and
- (c) the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020, in so far as these Regulations confer a relief from import duty in relation to returned goods relief, as detailed at sections 37 to 39 of the UK Reliefs document, subject to the modifications and exceptions set out in regulation 121D.”.

(a) 2018 c. 22.

(b) S.I. 1988/809; relevantly amended by 1995/1046 and 2015/368.

(c) 1996 c.8.

(d) S.I. 2018/1248, to which there are amendments, but none is relevant. This instrument is not yet in force.

(e) S.I. 2018/1249, relevantly amended by S.I. 2019/1215. These instruments are not yet in force.

(f) S.I. 2020/1431; this instrument is not yet in force.

65. In regulation 121 (adaptations), after “shall apply” insert “to importations”.

66. In regulations 121A, for “the United Kingdom” substitute “Great Britain, from any territory not including Northern Ireland”.

67. For regulation 121D (adaptations and exceptions for the application of returned goods relief) substitute—

“121D Modifications and exceptions for the application of returned goods relief

(1) For the purposes of relief from import VAT^(a) incurred on the importation of goods into Great Britain from outside the United Kingdom, the provisions of the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 are to be read as if the UK Reliefs document referred to in those Regulations was modified as follows.

(2) Regard sections 37 to 39 (returned goods relief) of the UK Reliefs document as requiring that the goods are re-imported into Great Britain by the same person who originally exported or re-exported the goods.

(3) Regard the amount of relief mentioned in sections 37 to 39 of the UK Reliefs document as reduced by the amount of any unpaid VAT.

(4) Regard the amount of import VAT in regulation 23 of the Customs (Special Procedures and Outward Processing) (EU Exit) Regulations 2018^(b) as reduced by the amount of any paid VAT.

(5) For the purposes of paragraphs (3) and (4)—

(a) “unpaid” refers to any part of the VAT charged and due on—

- (i) a supply of the goods in the United Kingdom before the re-importation, or
- (ii) an importation of the goods from outside the United Kingdom before the re-importation,

which has been repaid, remitted or otherwise not paid;

(b) “paid” refers to any part of the VAT charged, due and paid on—

- (i) a supply of the goods in the United Kingdom before the re-importation, or
- (ii) an importation of the goods from outside the United Kingdom before the re-importation,

in circumstances where there is no actual, or no prospect of, repayment or remission;

(c) a sum for which there is or was an entitlement or right to a deduction or refund within section 24^(c) of the Act (input tax and output tax) is neither “unpaid” nor “paid”.

(6) In the circumstances described in paragraph (7) or (8), the provisions of the Customs (Reliefs from a Liability to Import Duty and Miscellaneous Amendments) (EU Exit) Regulations 2020 are excepted from the legislation which is to apply as mentioned in section 16(1) of the Act (application of customs enactments)^(d).

(7) The circumstances are that—

(a) the re-importer contemplated by sections 37 to 39 of the UK Reliefs document makes a supply of, or concerning, the goods whilst those goods are under the

(a) See section 1(1)(c) of VATA.

(b) S.I. 2018/1249.

(c) Section 24 was amended by section 17(2) of the Finance Act 2003 (c. 14), section 19 and paragraphs 1(1) to (7) and 9 of Schedule 8 to the Finance (No. 3) Act 2010 (c. 33), and paragraph 24 of Schedule 8 to TCTA. The amendments made by TCTA are not yet in force.

(d) There are amendments to section 16(1) but none is relevant. A new section 16 (which concerns the application of customs enactments in relation to the importation of goods) is substituted by paragraph 13 of Schedule 8 to TCTA (the substitution is not yet in force).

inward processing procedure or in the course of, or after, the relevant exportation, re-exportation or re-importation of the goods,

- (b) the place of supply for the purposes of VAT is determined by or under section 7 of the Act^(a) (place of supply of goods) as being outside the United Kingdom, and
- (c) the goods nevertheless are, or may be, stored or physically used in the United Kingdom by or under the direction of that re-importer or the person to whom that supply is made (“recipient”);

and for these purposes “re-importer” and “recipient” include someone connected with either person or both persons as determined in accordance with sections 1122 and 1123 of the Corporation Tax Act 2010^(b).

(8) The circumstances are that the goods in question were supplied at any time to any person pursuant to regulations 132 to 133 or pursuant to any corresponding provisions of the Isle of Man.”.

68. In regulation 126 (reimportation of goods exported for treatment or process)—

- (a) for “the United Kingdom” substitute “Great Britain” in each place it occurs;
- (b) the existing text becomes paragraph (1) of that regulation; and
- (c) after that paragraph insert—

“(2) For the purposes of this regulation—

- (a) the reference to the importation of goods does not include the removal of goods from Northern Ireland to Great Britain, and related expressions are to be interpreted accordingly;
- (b) any reference to the exportation of goods does not include the removal of goods from Great Britain to Northern Ireland, and related expressions are to be interpreted accordingly.”

69. In regulation 128 (export of freight containers), for “the United Kingdom” substitute “Great Britain”.

70. In regulation 129 (supplies to overseas persons)—

- (a) for “the United Kingdom” substitute “Great Britain” in each place it occurs;
- (b) in sub-paragraph (a) after “supplied” insert “at a time when they were located in Great Britain”;
- (c) at the end of sub-paragraph (c) insert “and”;
- (d) after that sub-paragraph insert—
 - “(d) any conditions that may be specified by the Commissioners in a notice published by them have been met,”; and
- (e) after the words “subject to such” insert the word “other”.

71. In regulation 132—

- (a) the existing text becomes paragraph (1) of that regulation;
- (b) in that paragraph—
 - (i) for “the United Kingdom” substitute “Great Britain” in both places; and
 - (ii) after “motor vehicle” insert “located in Great Britain at the time of its purchase”;
- (c) after that paragraph insert—

(a) Section 7 was amended by paragraph 2 of Schedule 3 to the Finance Act 1996 (c. 8), paragraph 3 of Part 1 of Schedule 36 to the Finance Act 2009 (c. 10), paragraph 3 of Schedule 28 to the Finance Act 2012 (c. 14), and paragraph 7 of Schedule 8 to the TCTA. The amendments made by TCTA are not yet in force.

(b) 2010 c. 4; there are no amendments to sections 1122 and 1123.

“(2) The conditions that the Commissioners may impose under paragraph (1) may be specified in a notice published by them.”.

72. Before regulation 132, insert the heading “Supplies to persons departing from Great Britain”.

73. In regulation 133—

- (a) the existing text becomes paragraph (1) of that regulation;
- (b) in that paragraph—
 - (i) for “the United Kingdom” substitute “Great Britain” in both places; and
 - (ii) after “motor vehicle” insert “located in Great Britain at the time of its purchase”;
- (c) after that paragraph insert—

“(2) The conditions that the Commissioners may impose under paragraph (1) may be specified in a notice published by them.”.

74. After regulation 133 insert—

“Part 16ZA

Importations, exportations and removals in respect of Northern Ireland

Interpretation

133A.—(1) This Part applies to importations, exportations and removals in respect of Northern Ireland.

(2) In this Part—

“container” has the same meaning as in Part 16;

“export” means—

- (i) the export of goods from Northern Ireland to a place outside the member States; and
- (ii) the removal of goods from Northern Ireland to Great Britain or the Isle of Man, and related expressions are to be interpreted accordingly.

“importation” means—

- (i) the importation of goods from outside the United Kingdom as a result of their entry into Northern Ireland; and
- (ii) the entry of goods into Northern Ireland following their removal from Great Britain or the Isle of Man,

and related expressions are to be interpreted accordingly;

“overseas authority” means any country other than the United Kingdom or any part of or place in such a country or the government of any such country, part or place;

“relevant state” and “relevant states” means the member States and Northern Ireland;

“Union customs legislation” has the meaning given by paragraph 1(8) of Schedule 9ZB to the Act.

Supplies to persons outside the relevant states

133B. Where the Commissioners are satisfied that—

(1) goods intended for export to a place outside the relevant states have been supplied at a time when they were located in Northern Ireland to—

- (a) a person not resident in Northern Ireland,

- (b) a trader who has no business establishment in Northern Ireland from which taxable supplies are made, or
 - (c) an overseas authority, and
- (2) the goods were exported to a place outside the relevant states;
- (3) the goods are not personal gifts on export as defined in regulation 9 of the Customs (Export) (EU Exit) Regulations 2019^(a); and
- (4) any conditions that may be specified by the Commissioners in a notice published by them have been met,
- the supply, subject to such other conditions as they may impose, shall be zero-rated.

VAT Retail Export Scheme

133C.—(1) Where the Commissioners are satisfied that—

- (a) goods, which at the time of the supply were located in Northern Ireland, have been supplied to a person who is an overseas visitor and who, at the time of the supply, intended to depart from the relevant states before the end of the third month following that in which the supply is effected and that the goods should accompany him,
- (b) save as they may allow, the goods were produced to the competent authorities for the purposes of the common system of VAT in the relevant state from which the goods were finally exported to a place outside the relevant states, and
- (c) the goods were exported to a place outside the relevant states,

the supply, subject to such conditions as they may impose, shall be zero-rated.

(2) In this regulation—

- (a) “goods” does not include—
 - (i) a motor-vehicle, or
 - (ii) a boat intended to be exported under its own power,
- (b) the words “overseas visitor” refer to a traveller who is not established within the relevant states,
- (c) for the purposes of paragraph (b) above, a traveller is not established within the relevant states only if that traveller’s domicile or habitual residence is situated outside the relevant states,
- (d) solely for the purposes of paragraph (c) above, the traveller’s domicile or habitual residence is the place entered as such in a valid—
 - (i) identity document,
 - (ii) identity card, or
 - (iii) passport,
- (e) a document referred to in sub-paragraph (i), (ii) or (iii) of paragraph (d) is valid for the purposes of that paragraph only if—
 - (i) it is so recognised by the Commissioners, and
 - (ii) it is not misleading as to the traveller’s true place of domicile or habitual residence.

^(a) S.I. 2019/108.

Supplies to persons departing from the relevant states

133D.—(1) The Commissioners may, on application by an overseas visitor who intends to depart from the relevant states within 15 months and remain outside the relevant states for a period of at least 6 months, permit that person within 12 months of the person’s intended departure to purchase, from a registered person, a motor vehicle located in Northern Ireland at the time of purchase without payment of VAT, for subsequent export, and its supply, subject to such conditions as they may impose, shall be zero-rated.

(2) The conditions that the Commissioners may impose under paragraph (1) may be specified in a notice published by them.

(3) In this regulation, “overseas visitor” means a person who, during the 2 years immediately preceding the date of the application has not been in Northern Ireland for more than 365 days, or who, during the 6 years immediately preceding the date of the application has not been in Northern Ireland for more than 1,095 days.

133E.—(1) The Commissioners may, on application by any person who intends to depart from the relevant states within 9 months and remain outside the relevant states for a period of at least 6 months, permit that person within 6 months of the person’s intended departure to purchase, from a registered person, a motor vehicle located in Northern Ireland at the time of purchase without payment of VAT, for subsequent export, and its supply, subject to such conditions as they may impose, shall be zero-rated.

(2) The conditions that the Commissioners may impose under paragraph (1) may be specified in a notice published by them.

(3) In this regulation, “overseas visitor” means a person who, during the 2 years immediately preceding the date of the application has not been in Northern Ireland for more than 365 days, or who, during the 6 years immediately preceding the date of the application has not been in Northern Ireland for more than 1,095 days.

Supplies to persons taxable in a member State

133F.—(1) Subject to regulation 133G, where the Commissioners are satisfied that —

- (a) a supply of goods by a taxable person involves their removal from Northern Ireland;
- (b) the supply is to a person (“P”) who is registered for VAT in a member State and has provided the supplier with the VAT identification number issued to P by that member State,
- (c) the goods have been removed to a member State, and
- (d) the goods are not goods in relation to whose supply the taxable person has opted, pursuant to section 50A(a) of the Act, for VAT to be charged by reference to the profit margin on the supply,

the supply, subject to such conditions as they may impose, shall be zero-rated.

133G. The zero-rating provided for by regulation 133F shall be revoked where, in relation to a supply,—

- (a) the taxable person who makes the supply fails to comply with the obligation to submit a statement under regulation 22; or
- (b) the statement submitted by that taxable person does not set out the correct information as required by or under regulation 22, unless the taxable person can satisfy the Commissioners that there was a reasonable excuse for the failure to comply or the failure to provide the correct information, as appropriate.

(a) Section 50A was inserted by the Finance Act 1995 (c. 4) and amended by paragraph 52 of Schedule 8 to TCTA, but see paragraph 26 of Schedule 9ZA to VATA.

Additional provision in relation to importations, exportations and removals in respect of Northern Ireland

133H.—(1) The Commissioners may make additional provision in relation to importation, exportation and removals so far as concerning value added tax in respect of Northern Ireland in a notice published by them.

- (2) A notice made under this regulation may include provision for the following—
- (a) enactments, regulations and Union customs legislation which are to be excepted or adapted in relation to importations in, or exports from, Northern Ireland;
 - (b) treatment of supplies made to persons taxable in a member State or supplies of goods subject to excise duty to persons who are not taxable in a member State;
 - (c) reimportation of goods exported for treatment or process, temporary importations and export of freight containers;
 - (d) territories to be treated as excluded from or included in the territory of the Community and of the member States, related entry and exit formalities and use of the internal transit procedure under Union customs legislation and Union customs legislation which will apply.”.

Part 16A (fiscal and other warehousing regimes)

75. In regulation 145B(a) (fiscal warehousing certificates)—

- (a) in paragraph (1) omit the words before “the certificate referred to in section 18B(2)(d)”;
- (b) omit paragraph (2).

76. The heading to regulation 145G (fiscal warehousing transfers within the United Kingdom) becomes “Fiscal warehousing transfers in Great Britain”.

77. In regulation 145H (removals of goods from a fiscal warehousing regime and transfers overseas)—

- (a) in the heading for “overseas” substitute “outside Great Britain”;
- (b) in paragraph (2)—
 - (i) omit sub-paragraph (b);
 - (ii) in sub-paragraph (c), for “the member States” substitute “Great Britain”; and
- (c) in paragraph (4)—
 - (i) omit sub-paragraph (b) but not the final “or”;
 - (ii) in sub-paragraph (c), for “the member States” substitute “Great Britain”.

78. In regulation 145J (payment on removal of goods from a fiscal warehousing regime), for paragraph (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, paragraph 38(6) or paragraph 48(7) of Schedule 9ZA(b), to the Act.”.

79. After regulation 145K (place of supply of goods subject to a warehousing regime) insert—

(a) Part 16A was inserted by S.I. 1996/1250, and amended by S.I. 2005/2231, 2012/1899 and 2019/59. The amendments made by the last-named instrument are not yet in force and some are omitted by this instrument – see Part 3.

(b) Schedule 9ZA was inserted by paragraph 2 of Schedule 2 to TPTPA.

“Part 16B

Northern Ireland fiscal and other Northern Ireland warehousing regimes

Northern Ireland warehouses and fiscal warehouses: application of Part 16A with modifications

145L Part 16A and Schedule 1A apply to Northern Ireland warehouses and Northern Ireland fiscal warehouses as they apply to warehouses and fiscal warehouses—

- (a) as if any reference to “fiscal warehouse”, “warehouse”, “fiscal warehousing regime” and “warehousing regime” were a reference respectively to “Northern Ireland fiscal warehouse”, “Northern Ireland warehouse”, “Northern Ireland fiscal warehousing regime” and “Northern Ireland warehousing regime”; and
- (b) with the modifications set out in regulations 145M to 145R in respect of Part 16A, and in regulation 145T in respect of Schedule 1A.

Interpretation

145M In regulation 145A(1) (interpretation)—

- (a) in the definition of “eligible goods”, read the words after “by” as “paragraph 25(1) of Schedule 9ZB to the Act^(a) (supplementary provision)”;
- (b) in the definition of “material time”, read the words after “by” as “paragraph 25(1) of Schedule 9ZB to the Act except in regulation 145D where “material time” means the time the services are performed.”.

Northern Ireland fiscal warehousing transfers

145N Read the heading to regulation 145G (fiscal warehousing transfers in Great Britain) as “Fiscal warehousing transfers in Northern Ireland”.

Removal of goods from a Northern Ireland fiscal warehousing regime and transfers

145O(1) In the heading to regulation 145H (removal of goods from a fiscal warehousing regime and transfers outside Great Britain), read “Great Britain” as “Northern Ireland”.

(2) In regulation 145H(1), read “sections 18F(5), 18F(6)” as “paragraph 25(4), 25(5) of Schedule 9ZB to the Act”;

(3) In regulation 145H(2)—

- (a) read there as being before sub-paragraph (c)—

“(bb) where the goods in question are transferred or are in the process of transfer to arrangements which correspond in effect, under the law of a member State, to paragraph 19(5) (Northern Ireland fiscal warehouses: relief) of Schedule 9ZB to the Act whether or not those arrangements also correspond in effect to section 18C(1) (zero-rating of certain specified services performed in a fiscal or other warehousing regime) as applied by paragraph 21 (Northern Ireland warehouses and fiscal warehouses: services) of Schedule 9ZB to the Act”;

- (b) in sub-paragraph (c), read “Great Britain” as “Northern Ireland and the member States”;

(4) In regulation 145H(4)—

- (a) read there as being before sub-paragraph (c)—

(a) Schedule 9ZB was inserted by paragraph 2 of Schedule 2 to TPTPA.

“(bb) a document evidencing the completion of the transfer of the eligible goods from the relevant Northern Ireland fiscal warehousing regime directly to arrangements which correspond, in a member state, to Northern Ireland (60 days); or”;

(b) in sub-paragraph (c), read “Great Britain” as “Northern Ireland and the member States”.

145P. In regulation 145I(2), read the reference to section 18D(2) as a reference to paragraph 22(2) (removal from warehousing: accountability) of Schedule 9ZB to the Act.

Payment on removal of goods from a Northern Ireland fiscal warehousing regime

145Q. In regulation 145J(2)(a) (payment on removal of goods from a fiscal warehousing regime), read the reference to section 18B(4) as a reference to paragraph 19(6) of Schedule 9ZB to the Act.

Place of supply of goods subject to a Northern Ireland warehousing regime

145R. In regulation 145K (place of supply of goods subject to a warehousing regime), read “section 18(1)” in each place it occurs as “paragraph 16(1) of Schedule 9ZB to the Act”.

Fiscal warehousing certificates

145S(1) The certificate referred to in paragraph 19(1)(d) of Schedule 9ZB to the Act (certificate relating to acquisitions in or intended for fiscal warehousing) and the certificate referred to in paragraph 19(3)(d) of Schedule 9ZB to the Act (supplies of goods intended for fiscal warehousing) must contain the information indicated in the form specified in a notice published by the Commissioners

(2) A certificate prepared under paragraph 19(1)(d) of Schedule 9ZB by an acquirer who is not a taxable person must be kept by that person for a period of six years commencing on the day the certificate is prepared; and the person must produce it to a proper officer when that officer requests the person to do so.

Northern Ireland: modification of Schedule 1A

145T In Schedule 1A(a) (fiscal warehousing)—

(a) in paragraph 1—

(i) read there as being before sub-paragraph (f)—

“(ea) It must accurately identify as “transferred goods” all eligible goods which are transferred directly from the Northern Ireland fiscal warehousing regime to corresponding arrangements in a member State under regulation 145H(2)(bb), the date and time when the transfer starts, and the address of the place in the member State to which the goods in question are transferred.”;

(ii) in sub-paragraph (f), read “Great Britain” in both places it occurs as “Northern Ireland and the member States;”;

(b) in paragraph 3—

(i) read there as being before sub-paragraph (d)—

“(ca) It must include the document relating to the completion of a transfer to corresponding arrangements in a member State referred to in regulation 145H(4)(bb) and it must relate that document to the relevant transfer.”;

(a) Inserted by S.I. 1996/1250 and amended by S.I. 2019/59. The amendments made by the latter instrument are not yet in force and some of its amendments are omitted by this instrument.

- (ii) in sub-paragraph (d), read “Great Britain” as “Northern Ireland and the member States” ;
- (c) read paragraph 4(b) as—
 - “(b) It shall be adjusted to show a removal (and not a transfer) where the document referred to in regulations 145H(4)(bb) or 145H(4)(c) concerning goods which have been transferred to corresponding arrangements in a member State or which have been exported to a place outside Northern Ireland and the member States, is not received in time.”.

Modification of the Value Added Tax (Fiscal Warehousing) (Treatment of Transactions) Order 1996

145U(1) The Value Added Tax (Fiscal Warehousing) (Treatment of Transactions) Order 1996(a) applies with the modifications set out in paragraph (2) to goods subject to, or to be placed in, a Northern Ireland fiscal warehousing regime as it applies to goods subject to, or to be placed in, a fiscal warehousing regime.

- (2) The modifications are—
 - (a) in article 2, read “eligible goods” and “material time” as having the meanings given by paragraph 25(1) of Schedule 9ZB to the Act (supplementary provision);
 - (b) in article 3(2)(a) and (b), read “fiscal warehousing regime” as “Northern Ireland fiscal warehousing regime”.

Part 17 (means of transport)

80. In regulation 146(b) (interpretation)—

- (a) in the definition of “competent authority”—
 - (i) for “in any member State” substitute “in a relevant territory”, and
 - (ii) for “in that member State” substitute “in that territory”;
- (b) after the definition of “first entry into service” insert—
 - ““new means of transport” has the meaning given by paragraph 83 of Schedule 9ZA to the Act(c);”;
- (c) after the definition of “registration” insert—
 - ““relevant territory” means a member State or Northern Ireland.”.

81. In regulation 147(1)(b) (first entry into service of a means of transport), for “in the member State” in each place it occurs substitute “in the relevant territory”.

82. In regulation 148A(d)(notification of arrival in the United Kingdom of motorised land vehicles and payment of VAT)—

- (a) for paragraph (1) substitute—
 - “(1) This regulation applies to a means of transport that is a motorised land vehicle as described by paragraph 2(5E)(e) of Schedule 11 to the Act (a “land vehicle”).”;
- (b) in paragraph (2), for “(see paragraph 2(5D) of Schedule 11 to the Act)” substitute “(see paragraph (5A))”;
- (c) after paragraph (4) insert—

(a) S.I. 1996/1255.
 (b) Regulations 146 to 148 are omitted by S.I. 2019/59 but the amendment made by that instrument is not in force and is omitted by this instrument.
 (c) Inserted by paragraph 2 of Schedule 2 to TPTPA.
 (d) Inserted by S.I. 2013/701 and amended by S.I. 2001/574, 2014/548 and 2019/59. The amendment made by the last-named instrument is not yet in force and is omitted by this instrument.
 (e) Paragraph 2(5E) was inserted by paragraph 97(2)(f) of Schedule 8 to TCTA.

“(4A) No obligation arises under paragraph (3) or (4) by reason of the removal of a land vehicle from Northern Ireland to Great Britain or vice versa.”;

(d) after paragraph (5) insert—

“(5A) In this regulation “relevant person” has the meaning given by paragraph 2(5D) of Schedule 11 to the Act with the modification applied by paragraph 74(1)(c) of Schedule 9ZA to the Act(a).”;

(e) in paragraph (9)(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 or, in Northern Ireland, for the purposes of the corresponding provision of Union customs legislation as defined by paragraph 1(8) of Schedule 9ZB to the Act, and”.

83. In regulation 151(f)(b), (information to be included in claim) omit “from a place outside the member States”.

84. In regulation 152(b) (documents to accompany claim) omit “from a place outside the member States”.

85. In regulation 155—

- (a) in the heading, for “departing to another member State” substitute “departing Northern Ireland for a member State”;
- (b) for “in another member State” in each place it occurs substitute “a member State”;
- (c) in sub-paragraph (a), for “the United Kingdom” substitute “Northern Ireland”;
- (d) in sub-paragraph (b) after “transport” insert “from Northern Ireland”.

Part 20 (repayments to Community traders)

86. Before Part 21(c) (repayments to traders outside the United Kingdom) insert—

“Part 20A

Repayments to EU traders incurring VAT on goods in Northern Ireland

Application of this Part

184A. Part 20 of these Regulations as it had effect immediately before IP completion day continues to have effect subject to the modifications set out in regulations 184B to 184K.

184B. In regulation 173 (interpretation of Part 20) read there as being after paragraph (3)—

“(4) For the purposes of this Part, a supply is a supply of goods made to a claimant in Northern Ireland only where—

- (a) the goods are located in Northern Ireland at the time that they are supplied;
and
- (b) the invoice required by regulation 13 to be provided to the claimant by the supplier in respect of that supply—
 - (i) describes the supply as being a supply of goods; and

(a) Inserted by paragraph 2 of Schedule 2 to TPTPA.

(b) Regulations 149 to 155 are omitted by S.I. 2019/59 but that provision is not in force and is omitted by this instrument.

(c) Relevantly amended by S.I. 2009/3241, 2014/2430 and 2019/59. S.I. 2020/1495 contains transitional provisions following the omission of Part 20 by S.I. 2019/59. These two instruments are not yet in force.

- (ii) does not contain particulars of any supply other than a supply of goods of the description set out in sub-paragraph (a).”.

184C. For paragraph (1) of regulation 173B read—

“(1) The VAT referred to in regulation 173A is VAT charged on—

- (a) an importation of goods into Northern Ireland; and
- (b) a supply of goods made to the claimant in Northern Ireland if that VAT would be, or would be treated as, input tax of the claimant if the claimant were a taxable person.”.

184D. For paragraph (2) of regulation 173B read—

“(2) A claim for repayment may not be made in respect of VAT charged on—

- (a) an importation of goods in respect of which the VAT charged is eligible for other relief;
- (b) a supply or importation of goods which the claimant has removed or intends to remove from Northern Ireland to a member State, or which the claimant has exported or intends to export to a place outside the member States or to remove to Great Britain;
- (c) a supply or importation of goods which the claimant has used or intends to use for the purpose of any supply made in the course of a business activity carried on by the claimant in Northern Ireland;
- (d) a supply or importation of goods which if made to a taxable person would be excluded from credit under section 25 of the Act (payment of VAT by reference to accounting periods and credit for input tax against output tax); or
- (e) the supply or importation of goods to a travel agent which is for the direct benefit of a traveller other than the travel agent or the travel agent’s employee.”.

184E. In regulation 173C, read “goods or services” in both places it occurs as “goods”.

184F. For regulation 173E (persons to whom this Part applies), read—

“173E. This Part applies to a person who is established in and who carries on business in a member State for the whole of a repayment period other than a person who—

- (a) is established in Northern Ireland during any part of the repayment period; or
- (b) is registered or required to be registered for VAT in the United Kingdom during any part of the repayment period.”.

184G. In regulation 173F (time when VAT is incurred), read “supply of goods or services” in both places it occurs as “supply of goods”.

184H. In regulation 173K, read “supply of goods or services” as “supply of goods”.

184I. For paragraph (2) of regulation 173L (contents of a repayment application) read—

“(2) A supply is within this paragraph if it is a supply made in the course of a business activity carried on by the claimant in Northern Ireland.”.

184J. In regulation 173M—

- (a) for paragraphs (b) and (c) read—

“(b) except in the case of an importation of goods, the registration number of the supplier and the prefix “XI”;

- (c) the date of issue of, and the unique sequential number identifying, the import document required to be produced by regulation 17 of the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020^(a) or the document authenticated or issued by a proper officer in respect of an importation of goods or the VAT invoice issued in respect of the supply;
- (b) in paragraph (h), read “goods and services” as “goods”.

184K. For regulation 173O read—

“173O. The nature of the goods in respect of which repayment of VAT under this Part is claimed must be described in accordance with numerical codes specified for this purpose in a notice published by the Commissioners in accordance with this regulation.”.

Part 20B

Obligation on Commissioners to forward claims to member States

184L. The Commissioners must make arrangements for dealing with applications made to them by taxable persons for the forwarding, in accordance with the obligations of the United Kingdom under the EU withdrawal agreement, to the tax authorities of a member State of claims for refunds of VAT on—

- (a) supplies to them in that member State, or
- (b) the importation of goods by them into that member State from places outside the member States and Northern Ireland.”.

Part 21 (repayments to traders outside the United Kingdom)

87. In regulation 186^(b) (repayments of VAT), before “input tax” insert “, or would be treated as,”.

88. In regulation 190(1) (VAT which will not be repaid), before sub-paragraph (a) insert—

- “(za) VAT which the Commissioners would be obliged to repay if it was the subject of a claim made in accordance with Part 20 or Part 20A^(c)”.

Part 23 (refunds to “do-it-yourself” builders)

89. In regulation 200^(d) (interpretation of Part 23), after “section 35 of” insert “, or paragraph 18A of Schedule 9ZA^(e) to,”.

Schedule 1A

90. In Schedule 1A^(f) (fiscal warehousing)—

- (a) in paragraph 1—
 - (i) omit sub-paragraph (e);

(a) S.I. 2020/1546.

(b) Part 21 was amended by S.I. 2004/3140, 2009/3241, 2012/1899 and 2019/59. The amendments made by the last-named instrument are not yet in force.

(c) Inserted by this instrument.

(d) Part 23 was amended by S.I. 2009/1967 and 2012/1899.

(e) Paragraph 18A was inserted into Schedule 9ZA by S.I. 2020/1544. Schedule 9ZA was inserted into VATA by paragraph 2 of Schedule 2 to TPTPA.

(f) Inserted by S.I. 1996/1250 and amended by S.I. 2019/59. The amendments made by the latter instrument are not yet in force and some of its provisions are omitted by this instrument.

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

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

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

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

Amendment of the Value Added Tax (Acquisitions) Relief Order 2002

93. The Value Added Tax (Acquisitions) Relief Order 2002(b) is amended as follows.

94. In article 2, for “no VAT shall be payable on any acquisition from another member State of any goods” substitute “NI acquisition VAT, as defined in paragraph 1(3) of Schedule 9ZA to the Value Added Tax Act 1994, shall not be charged on the acquisition in Northern Ireland of goods from a member State”.

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

95. The Value Added Tax (Place of Supply of Goods) Order 2004(c) is amended as follows.

96. In article 4 (interpretation)—

- (a) omit the definition of “Community transport”;
- (b) in the definition of “homeward stage”, for “member States” substitute “relevant countries”;
- (c) in the definition of “point of arrival”—
 - (i) for “in the member States” substitute “in a relevant country”;
 - (ii) for “in a member State” substitute “in a relevant country”; and
 - (iii) for “outside the member States” substitute “other than in a relevant country”;
- (d) in the definition of “point of departure”—
 - (i) for “in the member States” substitute “in a relevant country”; and
 - (ii) for “outside the member States” substitute “other than in a relevant country”;
- (e) after the definition of “point of departure” insert—

““relevant country” means Northern Ireland or a member State;”;
- (f) after that definition insert—

““relevant NI transport” means the transportation of passengers between the point of departure and the point of arrival in the course of which—

(a) S.I. 1999/3121; amended by S.I. 2018/1328, 2019/175 and 2019/408. The two last-named instruments are not yet in force and are revoked by this instrument.

(b) S.I. 2002/1935; revoked by S.I. 2019/59. The provision revoking S.I. 2002/1935 has not been commenced and is now omitted by this instrument.

(c) S.I. 2004/3148; relevantly amended by S.I. 2009/215 and 2019/1507.

- (a) there is a stop in a relevant country other than that in which lies the point of departure; and
- (b) there is no stop in a country which is not a relevant country;”.

97. In article 5, for “Community transport” substitute “relevant NI transport”.

98. In article 6—

- (a) for “Community transport” substitute “relevant NI transport”; and
- (b) for “member States” substitute “United Kingdom”.

99. After Part 3 insert—

“Part 4A

Northern Ireland Chain Transactions

“19. Article 20 applies where the same goods—

- (a) are supplied successively through a chain, and
- (b) are dispatched or transported either—
 - (i) from a member State to Northern Ireland directly from the first supplier in the chain to the last customer in the chain, or
 - (ii) from Northern Ireland to a member State directly from the first supplier in the chain to the last customer in the chain.

20. Where this article applies—

- (a) the NI-EU supply is to be treated as the supply that involves the removal of the goods from or to Northern Ireland; and
- (b) all supplies made after the NI-EU supply are to be treated as supplied—
 - (i) outside the United Kingdom in the case of goods removed or to be removed from Northern Ireland to a customer in a member State;
 - (ii) within the United Kingdom in the case of goods removed or to be removed from a member State to a customer in Northern Ireland.

21. The “NI-EU supply” is—

- (a) the supply in the chain that is made to the intermediary operator (“I”), or
- (b) where I has provided its supplier with the relevant VAT identification number issued to I, the supply in the chain that is made by I.

22. The “relevant VAT identification number” means—

- (a) where the goods are dispatched or transported from a member State, the VAT identification number issued to I by that member State;
- (b) where the goods are dispatched or transported from Northern Ireland, the VAT identification number issued to I by the United Kingdom along with an NI VAT identifier.

23. “Intermediary operator” means a supplier within the chain other than the first supplier in the chain who dispatches or transports the goods either itself or through a third party acting on its behalf.”.

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

100. The Value Added Tax (Removal of Gas, Electricity, Heat and Cooling) Order 2010(a) is amended as follows.

101. In article 3(a)(b) (the application of paragraph 6(1) of Schedule 4 to the Value Added Tax Act 1994), after “within” insert “Northern Ireland or”.

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

102. The Value Added Tax (Section 55A) (Specified Goods and Excepted Supplies) Order 2014(c) is amended as follows.

103. In article 4, for paragraph (a) substitute—

“(a) gas supplied through a natural gas system situated in Great Britain or any network connected to a natural gas system in Great Britain;

(aa) gas supplied through a natural gas system situated within Northern Ireland or the territory of a member State or any network connected to such a system; and”.

Part 3

Consequential and other amendments and revocations of EU Exit secondary legislation

Amendment of the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019

104.—(1) The Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019(d) are amended as follows.

(2) In regulation 3(2), for the definition inserted by sub-paragraph (a)(ii) substitute—

““importation” is to be interpreted in accordance with the provisions of the Value Added Tax Act 1994;”.

(3) Omit the amendments made by regulation 83(2) to Part 3 of the Value Added Tax (Place of Supply of Goods) Order 2004(e);

(4) Omit regulations 2, 5(2)(a)(i) and (2)(c), 9(2), 10(2)(b) and (3)(b), 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 76, 77, 78, 81, 86(3), 89(a), (b), (c), (d), (e) and (f).

Amendment of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019

105.—(1) The Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(f) are amended as follows.

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- (a) S.I. 2010/2925; revoked by S.I. 2019/59 but that revocation is not in force and is omitted by this instrument.
- (b) Paragraph 6(1) of Schedule 4 to VATA was repealed by paragraph 88(3) of Schedule 8 to TCTA and re-enacted with modifications in paragraph 30 of Schedule 9ZB to VATA, inserted by paragraph 2 of Schedule 2 to TPTPA. By virtue of section 3(4)(a) of TPTPA, a reference to the repealed provision is to be construed as a reference to the re-enacted provision.
- (c) S.I. 2014/1458; amended by S.I. 2019/59. The amendments made by this instrument are not yet in force and are, in part, revoked by this instrument.
- (d) S.I. 2019/59, amended by S.I. 2020/1495. Neither of these instruments is yet in force.
- (e) S.I. 2004/3148; relevant amending instruments are S.I. 2010/2923, 2019/59 and 2020/1495. It is also amended by Schedule 2 to TPTPA and this instrument.
- (f) S.I. 2019/60, relevantly amended by S.I. 2020/1495.

- (2) In regulation 2 (interpretation) —
- (a) for the definition of “import VAT” substitute—
- ““import VAT” means value added tax chargeable by virtue of section 1(1)(c) of the Act but not pursuant to any other provision by or under that Act(a);”.
- (b) at the appropriate place insert—
- ““Union customs legislation” has the meaning given by paragraph 1(8) of Schedule 9ZB to the Act;”;
- (3) after regulation 3(1) insert—
- “(1A) These regulations do not apply to a person who is treated as having imported goods for the purposes of paragraph 4(2) of Schedule 9ZC(b) to the Act.”.
- (4) In regulation 5 (accounting for import VAT), after paragraph (2) insert—
- “(3) Where the relevant goods are declared for the free circulation procedure for the purposes of Union customs legislation, P’s VAT registration number must be shown on that declaration; and
- (4) Where the relevant goods are declared for a special procedure for the purposes of Union customs legislation P must in relation to those goods comply with any conditions imposed by or under the Union customs legislation so far as relating to the special procedure for which those goods were declared.”.
- (5) Omit regulation 12(3)(a), (4)(b) and (5)(b).

Amendment of the Value Added Tax and Excise Personal Reliefs (Special Visitors and Goods Permanently Imported) (Amendment) (EU Exit) Regulations 2019

106.—(1) The Value Added Tax and Excise Personal Reliefs (Special Visitors and Goods Permanently Imported) (Amendment) (EU Exit) Regulations 2019(c) are amended as follows.

- (2) In regulation 2, for “3 to 7” substitute “3, 4 and 5”.
- (3) Omit regulations 3(2), 6, 7 and 9(2).

Amendment of the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019

107.—(1) The Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019(d) are amended as follows.

- (2) Omit regulations 3 and 5(3)(b) and (4).

Revocations

108. The following instruments are revoked—

- (a) The Value Added Tax (Input Tax) (Specified Supplies) (EU Exit) Regulations 2019(e);
- (b) The Value Added Tax (Input Tax) (Specified Supplies) (EU Exit) (No. 2) Regulations 2019(f).

(a) The definition does not include VAT chargeable on movements of goods between Northern Ireland and Great Britain and vice versa as provided for in paragraph 3(2) and (4) of Schedule 9ZB to VATA.

(b) Schedule 9ZC was inserted by Schedule 3 to TPTPA.

(c) S.I. 2019/91. This instrument is not yet in force.

(d) S.I. 2019/513; amended by S.I. 2019/1214, 2020/1495 and Schedule 2 to TPTPA. S.I. 2019/513 is not yet fully in force. S.I. 2020/1495 is also not yet in force.

(e) S.I. 2019/175.

(f) S.I. 2019/408.

Part 4

Savings and transitional Provisions

Interpretation of this Part

109.—(1) In this Part—

“the accounting procedures Regulations” means the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(a);

“acquisition VAT” means VAT charged in accordance with VATA 1994 (as it had effect immediately before IP completion day) on the acquisition in the United Kingdom of goods from a member State;

“Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“import VAT” means VAT charged in accordance with section 1(1)(c) of VATA 1994;

“the Part 3 amendments” means the amendments made by Part 3 of TCTA 2018;

“the secondary legislation amendments” means the amendments made in relation to value added tax by any regulations made by the appropriate Minister under TCTA 2018, or by statutory instrument under any other enactment in consequence of, or otherwise in connection with, the United Kingdom’s withdrawal from the EU;

“TCTA 2018” means the Taxation (Cross-border Trade) Act 2018;

“VATA 1994” means the Value Added Tax Act 1994(b).

(2) For the purposes of this Part, any reference in the provisions of VATA 1994 and in subordinate legislation made under that Act (as they had effect immediately before IP completion day) to “another member State” is treated as if it were a reference to “a member State”.

Transitional provision in relation to acquisition VAT

110.—(1) Paragraph (2) applies where—

(a) the time that an acquisition in the United Kingdom of goods from a member State is treated as taking place, as determined by section 12 of VATA 1994(c) (as it had effect immediately before IP completion day), falls on or after IP completion day; and

(b) the goods enter the territory of the United Kingdom before IP completion day.

(2) Where this paragraph applies, acquisition VAT is charged, and the person who is liable for the acquisition VAT must account for it, as if the Part 3 amendments(d) and the secondary legislation amendments, insofar as they relate to acquisition VAT, had no effect.

111.—(1) Paragraph (2) applies where—

(a) the time that an acquisition in the United Kingdom of goods from a member State is treated as taking place, as determined by section 12 of VATA 1994 (as it had effect immediately before IP completion day), falls before IP completion day; and

(b) the goods so acquired enter the territory of the United Kingdom on or after IP completion day.

(2) Where this paragraph applies—

(a) S.I. 2019/60. These Regulations are not yet in force.

(b) 1994 c. 23; for relevant amendments see footnotes below.

(c) Section 12 of VATA was amended by section 26 of, and paragraph 3 of Schedule 3 to, the Finance Act 1996 (c. 8) and is omitted by section 43 of, and paragraph 11 of Schedule 8 to, TCTA. The omission is not yet in force.

(d) Part 3 of TCTA (value added tax) is not yet fully in force.

- (a) the person who is liable for the acquisition VAT must account for it as if the Part 3 amendments and the secondary legislation amendments, insofar as they relate to acquisition VAT, had no effect;
- (b) in cases where the person mentioned in sub-paragraph (a) is also liable for import VAT on the importation of the same goods, that person must—
 - (i) account for the import VAT in the manner prescribed by regulation 4 of the accounting procedures Regulations, as if that provision required (rather than permitted) the person to account for import VAT in that manner, provided that the conditions in regulation 5 of those Regulations are met, and
 - (ii) when accounting for the import VAT—
 - (aa) reduce its amount by the amount of the acquisition VAT for which that person is also liable in relation to the same goods, or
 - (bb) if the liability for acquisition VAT is greater than the corresponding liability for import VAT, reduce the amount accounted for in respect of import VAT to nil; and
- (c) the person liable for the import VAT, if otherwise entitled to credit for input tax in respect of that charge under section 25 of VATA 1994(a), is not entitled to such credit for any sum greater than the net amount of import VAT accounted for under sub-paragraph (b).

112.—(1) Paragraph (2) applies where—

- (a) a supply of goods as is mentioned in section 14(2) of VATA 1994(b) (as it had effect immediately before IP completion day) is treated as an acquisition of goods from a member State;
- (b) the time that such acquisition is treated as taking place, as determined by section 12 of VATA 1994 (as it had effect immediately before IP completion day), falls on or after IP completion day; and
- (c) the goods so supplied enter the territory of the United Kingdom before IP completion day.

(2) Where this paragraph applies, acquisition VAT is charged, and the person who is liable for the acquisition VAT must account for it, as if the Part 3 amendments and the secondary legislation amendments, insofar as they relate to acquisition VAT, had no effect.

113.—(1) Paragraph (2) applies where—

- (a) a supply of goods as is mentioned in section 14(2) of VATA 1994 (as it had effect immediately before IP completion day) is treated as an acquisition of goods from a member State;
- (b) the time that such acquisition is treated as taking place, as determined by section 12 of VATA 1994 (as it had effect immediately before IP completion day), falls before IP completion day; and
- (c) the goods so supplied (or any part of them) enter the territory of the United Kingdom on or after IP completion day.

(2) Where this paragraph applies—

- (a) the person who is liable for the acquisition VAT charged in relation to the transaction described in paragraph (1) must account for the full value of the supply, including that which relates to the installation or assembly (as the case may be) of the goods, as if the Part 3 amendments and the secondary legislation amendments, insofar as they relate to acquisition VAT, had no effect;

(a) Section 25 of VATA was amended by section 43 of, and paragraph 25 of Schedule 8 to, TCTA. The amendment is not yet in force.

(b) Section 14 of VATA is omitted by section 43 of, and paragraph 11 of Schedule 8 to, TCTA. The omission is not yet in force.

- (b) in cases where the person mentioned in sub-paragraph (a) is also liable for import VAT on the importation of the same goods, that person must—
 - (i) account for the import VAT in the manner prescribed by regulation 4 of the accounting procedures Regulations, as if that provision required (rather than permitted) the person to account for import VAT in that manner, provided that the conditions in regulation 5 of those Regulations are met, and
 - (ii) when accounting for the import VAT—
 - (aa) reduce its amount by the amount of the acquisition VAT for which that person is also liable in relation to the same goods, or
 - (bb) if the liability for acquisition VAT is greater than the corresponding liability for import VAT, reduce the amount accounted for in respect of import VAT to nil; and
- (c) the person liable for the import VAT, if otherwise entitled to credit for input tax in respect of that charge under section 25 of VATA 1994, is not entitled to such credit for any sum greater than the net amount of import VAT accounted for under sub-paragraph (b).

114.—(1) Regulations 110 to 113 do not apply in relation to transactions involving the removal of goods from a member State to the United Kingdom as a result of their entry into Northern Ireland (as to which see provision relating to VAT on acquisitions in Northern Ireland from member States in Schedule 9ZA to VATA 1994).

(2) Regulations 115 to 118 apply in relation to the transactions referred to in paragraph (1).

115. Where an acquisition in Northern Ireland of goods from a member State is treated as taking place on or after IP completion day in accordance with paragraph 4(1) of Schedule 9ZA to VATA 1994 and the time of acquisition is determined by reference to a first removal of the goods occurring before IP completion day, the fact that the first removal occurs at that time does not affect the charge to VAT that is imposed under paragraph 1 of that Schedule.

116. Where an acquisition in Northern Ireland of goods from a member State is treated as taking place before IP completion day in accordance with section 12 of VATA 1994 (as it had effect immediately before IP completion day), the charge to VAT is to be treated as NI acquisition VAT under Schedule 9ZA to VATA 1994 for all purposes relating to things that arise, occur or are done in consequence of or in relation to that charge on or after IP completion day.

117. Where—

- (a) goods are supplied in the circumstances described in paragraph 6(3) of Schedule 9ZA to VATA 1994,
- (b) the supply is treated as an acquisition of goods taking place on or after IP completion day in accordance with paragraph 4(1) of that Schedule,
- (c) and the goods are removed from a member State to Northern Ireland before IP completion day,

the fact that the removal occurs at that time does not affect the application of the provision in paragraph 6(3) of Schedule 9ZA and does not affect the charge to VAT that is imposed under paragraph 1 of that Schedule.

118.—(1) Paragraph (2) applies where—

- (a) goods are supplied in the circumstances described in paragraph 6(3) of Schedule 9ZA to VATA 1994;
- (b) the supply is treated as an acquisition of goods taking place before IP completion day in accordance with section 12 and section 14(2) of VATA 1994 (as those sections had effect immediately before IP completion day); and
- (c) the goods (or any part of them) are removed from a member State to Northern Ireland on or after IP completion day.

(2) Where this paragraph applies—

- (a) the supply of goods is to be treated as involving their removal from a member State to Northern Ireland in accordance with paragraph 6(3) of Schedule 9ZA to VATA 1994;
- (b) the fact that the removal of the goods (or part of them) takes place on or after IP completion day does not affect the application of that paragraph; and
- (c) the charge to VAT is to be treated as NI acquisition VAT under Schedule 9ZA to VATA 1994 for all purposes relating to things that arise, occur or are done in consequence of or in relation to that charge on or after IP completion day

Transitional provision in relation to the movement of goods between Great Britain and Northern Ireland

119.—(1) Paragraph (2) applies where—

- (a) there is a removal of goods from Great Britain to Northern Ireland in the course of a taxable supply made by a taxable person;
- (b) the time that a supply in relation to the goods is treated as taking place, as determined by section 6 of VATA 1994(a), falls before IP completion day;
- (c) the goods enter the territory of Northern Ireland on or after IP completion day;
- (d) a person is liable for VAT on the supply; and
- (e) the person who is liable for VAT on the supply is also liable for VAT charged on the entry of the goods into Northern Ireland by para 3(4) of Schedule 9ZB to VATA 1994.

(2) Where this paragraph applies—

- (a) the person liable for the VAT charged on the entry of the goods into Northern Ireland must, when accounting for that VAT—
 - (i) reduce its amount by the amount of the VAT for which that person is also liable in relation to the supply of the same goods by virtue of the supply (or some part of its amount) being treated as taking place before IP completion day, or
 - (ii) if the liability for the VAT on the supply is greater than the corresponding liability for VAT on the entry of the goods into Northern Ireland, reduce the amount accounted for in respect of the VAT charged on the entry of the goods into Northern Ireland to nil; and
- (b) any person who would otherwise be entitled to credit under section 25 of VATA 1994 for input tax in respect of the VAT charged on the entry of the goods into Northern Ireland, is not entitled to such credit for any sum greater than the net amount of that VAT accounted for under sub-paragraph (a).

120.—(1) Paragraph (2) applies where—

- (a) there is a removal of goods from Northern Ireland to Great Britain in the course of a taxable supply made by a taxable person;
- (b) the time that a supply in relation to the goods is treated as taking place, as determined by section 6 of VATA 1994, falls before IP completion day;
- (c) the goods enter the territory of Great Britain on or after IP completion day;
- (d) a person is liable for VAT on the supply; and
- (e) the person who is liable for VAT on the supply is also liable for VAT charged on the entry of the goods into Great Britain by para 3(2) of Schedule 9ZB to VATA 1994.

(2) Where this paragraph applies—

(a) Section 6 of VATA was amended by section 26 of, and paragraph 1 of Schedule 3 to, the Finance Act 1996; section 22 of the Finance Act 1998 (c. 36); sections 24 and 141 of, and Schedule 40 to, the Finance Act 2002 (c. 23); section 76 of, and paragraph 2 of Schedule 36 to, the Finance Act 2009 (c. 10); and section 43 of, and paragraph 6 of Schedule 8 to, the TCTA. The latter amendment is not yet in force.

- (a) the person liable for the VAT charged on the entry of the goods into Great Britain must, when accounting for that VAT—
 - (i) reduce its amount by the amount of the VAT for which that person is also liable in relation to the supply of the same goods by virtue of the supply (or some part of its amount) being treated as taking place before IP completion day, or
 - (ii) if the liability for the VAT on the supply is greater than the corresponding liability for VAT on the entry of the goods into Great Britain, reduce the amount accounted for in respect of the VAT charged on the entry of the goods into Great Britain to nil; and
- (b) any person who would otherwise be entitled to credit under section 25 of VATA 1994 for input tax in respect of the VAT charged on the entry of the goods into Great Britain, is not entitled to such credit for any sum greater than the net amount of that VAT accounted for under sub-paragraph (a).

Transitional provision in relation to secondary legislation amended by these Regulations

121. The amendments made by regulation 11(2) to the Value Added Tax (Cars) Order 1992(a) do not apply where—

- (a) a person (“P”) took possession of the used motor car in Great Britain or the Isle of Man before IP completion day and P would have been eligible to opt to account for the VAT chargeable on a supply of the motor car on the profit margin in accordance with article 8 had it been so supplied before IP completion day; and
- (b) the ownership of the used motor car remained with P from the time P took possession of it under paragraph (a) to the time of the supply of the motor car on which P elects to account for the VAT chargeable on that supply on the profit margin in accordance with article 8.

122.—(1) Paragraph (2) applies where—

- (a) there is a removal of gold as described in the Value Added Tax (Treatment of Transactions) (No.2) Order 1992(b); and
- (b) acquisition VAT would (but for the provisions made in that Order) be charged on or after IP completion day in accordance with transitional provision made in these Regulations or other regulations made under TCTA 2018.

(2) Where this paragraph applies, the treatment of the acquisition of gold specified in that Order continues to apply as if the Order had not been amended by these Regulations.

123.—(1) Paragraph (2) applies where acquisition VAT is charged on or after IP completion day in accordance with transitional provision made in these Regulations or other regulations made under TCTA 2018.

(2) Where this paragraph applies, the provisions of the Value Added Tax (Input Tax) Order 1992(c) concerning the disallowance of input tax in relation to goods acquired in the United Kingdom from a member State in accordance with provisions of VATA 1994 (as it had effect immediately before IP completion day), continue to apply as if the Order had not been amended by these Regulations.

(a) S.I. 1992/3122; relevant amending instruments are S.I. 1995/1269, 1995/1667, 1997/1615, 1998/759, 1999/2832, 2001/3754, 2002/1502, 2006/874 and 2019/59. The amendments made by the last-named instrument are not yet in force and are partly omitted by this instrument.

(b) S.I. 1992/3132. Revoked by S.I. 2019/59. The provision revoking S.I. 1992/3132 has not been commenced and is now omitted by this instrument.

(c) S.I.1992/3222. amended by S.I. 1995/281, 1995/1267, 1995/1666, 1998/2767, 1999/2930, 1999/3118, 2009/217, 2011/1071 and 2019/59. The amendment made by the last-named instrument is not yet in force.

124. The amendment made by regulation 30(5)(c) to the Value Added Tax (Special Provisions) Order 1995(a) does not apply where—

- (a) a person (“P”) took possession of the goods in Great Britain or the Isle of Man before IP completion day and P would have been eligible to opt to account for the VAT chargeable on a supply of the goods on the profit margin in accordance with article 12 of the Order had they been so supplied before IP completion day; and
- (b) the ownership of the goods remained with P from the time P took possession of the goods under paragraph (a) to the time of the supply of the goods on which P elects to account for the VAT chargeable on that supply on the profit margin in accordance with article 12 of the Order.

125.—(1) Subject to paragraph (2), regulation 121D of the Value Added Tax Regulations 1995(b) additionally applies to goods that are—

- (a) transported from the United Kingdom to a member State prior to IP completion day, and remain located in a member State as at IP completion day; or
- (b) exported from a member State prior to IP completion day and remain located outside the member States as at IP completion day.

(2) For the purposes of paragraph (1), the terms “unpaid” and “paid” in regulation 121D(5) of those Regulations also refer to—

- (a) an acquisition of goods in the United Kingdom before the re-importation;
- (b) an importation of the goods from outside the member States before the re-importation;
- (c) a supply or acquisition of the goods in a member State before the re-importation.

126. In the application of regulation 121D of the Value Added Tax Regulations 1995 to goods which are in the United Kingdom as at IP completion day, the terms “unpaid” and “paid” in paragraph (5) are to have the additional meanings given in regulation 125(2).

127. Regulation 121D of the Value Added Tax Regulations 1995 does not apply to goods supplied at any time to any person pursuant to regulation 131 of those Regulations(c).

128.—(1) Paragraph (2) applies where acquisition VAT would, but for the provisions made in the Value Added Tax (Acquisitions) Relief Order 2002(d), be charged on or after IP completion day in accordance with transitional provision made in these Regulations or other regulations made under TCTA 2018.

(2) Where this paragraph applies, the relief from acquisition VAT provided for in that Order continues to apply as if the Order had not been amended by these Regulations.

129.—(1) Paragraph (2) applies where—

- (a) the Community transport mentioned in Part 2 (goods supplied on board ships, aircraft and trains) of the Value Added Tax (Place of Supply of Goods) Order 2004(e) (as it had effect immediately before IP completion day) begins before IP completion day; and
- (b) the goods to which that Order applies are supplied on or after IP completion day.

(2) Where this paragraph applies, the provisions in that Order concerning the place where the supply of goods is treated as taking place, continue to apply as if that Part had not been amended by these Regulations.

(a) S.I. 1995/1268; relevant amending instruments are S.I. 1997/1616, 1998/760, 2001/3753, 2002/1503, 2006/2187 and 2019/59. The amendments made by the last-named instrument are not yet in force and are omitted by this instrument.

(b) S.I. 1995/2518. A new regulation 121D is substituted by regulation 67 of this instrument.

(c) Regulation 131 was amended by S.I. 1995/3147, 2003/1485 and is omitted by S.I. 2020/1412.

(d) S.I. 2002/1935; revoked by S.I. 2019/59. The provision revoking S.I. 2002/1935 has not been commenced and is now omitted by this instrument.

(e) S.I. 2004/3148; relevantly amended by S.I. 2009/215 and 2019/1507.

Supplementary provision to be made by the Commissioners

130. Where, in this Part, a person is required to account for acquisition VAT, import VAT or VAT for which that person is liable by virtue of paragraph 4(3) of Schedule 9ZB to VATA 1994—

- (a) the Commissioners may make such supplementary provision in a notice published by them as they consider necessary for the accounting for that VAT (including specifying the box in a person’s VAT return in which entries are to be made); and
- (b) in relation to cases where VAT is required to be accounted for in the manner prescribed by regulation 4 of the accounting procedures Regulations subject to the conditions in regulation 5 of those Regulations being met, and those conditions are not met, the VAT for which that person is liable on the importation of the goods must be accounted for in accordance with provision set out in a notice published by the Commissioners.

131. The Commissioners may make such further supplementary provision in a notice published by them as they consider necessary in connection with the transitional provision made in this Part.

*Maggie Throup
David Duguid*

18th December 2020

Two of the Lords Commissioners for Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various statutory instruments relating to value added tax (“VAT”) for the purpose of making changes that are appropriate in consequence of, or otherwise in connection with, the withdrawal of the UK from the EU. They also make associated savings and transitional provisions.

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

Part 2 amends secondary legislation relating to VAT. Amendments are made which are required as a result of the Protocol on Ireland/Northern Ireland agreed between the EU and the UK as part of the Withdrawal Agreement (“the Protocol”). The amendments re-enact certain provisions of VAT law in connection with the movement of goods between the EU and Northern Ireland which were omitted by earlier EU exit legislation, principally the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019 (S.I. 2019/59). They also make provision in relation to the VAT treatment of goods imported into Northern Ireland from outside the EU or removed to Northern Ireland from the rest of the United Kingdom, and vice versa. Part 2 also makes amendments unconnected with the Protocol regarding the treatment of tax incurred in respect of certain financial services.

Regulation 2 amends the Value Added Tax (Imported Goods) Relief Order 1984 (S.I. 1984/746). The 1984 Order makes provision for the charge to import VAT to be relieved in specified circumstances. The amendments ensure that these reliefs will continue to apply to goods imported into the UK by virtue of their entry into Northern Ireland and will also apply to the charge to VAT that arises when goods are removed from Northern Ireland to Great Britain after the end of the transition period. Regulation 2 inserts new articles 3A and 3B which modify the application of the Order depending on whether the goods are imported by entry into Northern Ireland or are removed from Northern Ireland to Great Britain. A consequential amendment is made to S.I. 2019/59 (see Part 3 of these Regulations) to provide a definition of “importation”.

Regulations 3 to 8 amend the Value Added Tax (Removal of Goods) Order 1992 (S.I. 1992/3111). As a result of the UK’s withdrawal from the EU, the Order no longer applies in relation to the movement of goods between the EU and Great Britain but continues to have relevance to the

movement of goods between the EU and Northern Ireland. Regulations 3 to 8 therefore make amendments to the Order so that it continues to have application in relation to Northern Ireland.

Regulations 9 to 12 amend the Value Added Tax (Cars) Order 1992 (S.I. 1992/3122) in light of the Protocol by providing that the margin scheme continues to operate for second hand cars where possible and for providing that specified services in relation to the supply of second hand cars are outside the scope of VAT.

Regulations 13 to 15 amend the Value Added Tax (Supply of Temporarily Imported Goods) Order 1992 (S.I. 1992/3130) in light of the Protocol by providing that goods temporarily imported into the UK will be outside the scope of VAT if they meet the conditions of temporary importation by reference to the customs provisions which apply across the UK.

Regulation 16 amends the Value Added Tax (Treatment of Transactions) (No.2) Order 1992 (S.I. 1992/3132). As a result of the UK's withdrawal from the EU, the treatment of transactions order no longer applies in relation to supplies of gold removed from the EU to Great Britain but continues to have relevance for supplies of gold between the EU and Northern Ireland. Regulation 16 therefore amends the Order so that it continues to have application in relation to Northern Ireland.

Regulation 17 amends the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992 (S.I. 1992/3156) to restore references to acquisitions. It modifies the application of a provision of the Order to movements into Northern Ireland from Great Britain and the Isle of Man.

Regulation 18 amends the Customs and Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992 (S.I. 1992/3193) to ensure the reliefs operate as required across the UK. It modifies the application of the Order to movements into Northern Ireland by inserting a new article 4A.

Regulations 19-24 amend the Value Added Tax (Input Tax) Order 1992 (S.I. 1992/3222) which sets out the circumstances in which certain descriptions of input tax are excluded from credit under section 25 of the Value Added Tax Act 1994 (c. 23; "VATA"). Under the Protocol, acquisitions continue to have relevance in relation to Northern Ireland. Regulations 19-24 therefore amend definitions in the Order and insert a new Schedule 2 to apply the relevant provisions to acquisition tax incurred in Northern Ireland. Regulation 22 also defines "importation" for the purposes of the Order in consequence of provision made by the Taxation (Post-transition Period) Act 2020 (c. 26).

Regulation 25 amends the Value Added Tax (Payments on Account) Order 1993 (S.I. 1993/2001) to update the method for calculating payments to be made on account of VAT in consequence of other EU exit legislation which permits or, in some cases, mandates VAT return accounting for import VAT.

Regulations 26-29 amend the Value Added Tax (Treatment of Transactions) Order 1995 (S.I. 1995/958). Article 3 of the Order provides that a transfer of ownership of certain goods when they are subject to a specified customs relief is not a supply of goods or services. The amendments change the definition of the applicable relief from customs duty referred to in the Order so that the relevant provisions apply in Northern Ireland and the rest of the UK, as required. The provisions applicable in Northern Ireland are those that apply by virtue of EU customs legislation and the provisions applicable in the rest of the UK are those applicable under the Taxation (Cross-border Trade) Act 2018 (c. 22).

Regulation 30 amends the Value Added Tax (Special Provisions) Order 1995 (S.I. 1995/1268) to restore references to acquisition tax in relation to Northern Ireland and to refer to the relevant customs provisions which operate across the UK in light of the Protocol.

Regulations 31-86 amend the Value Added Tax Regulations 1995 (S.I. 1995/2518). Regulation 32 amends the interpretation provision. Regulation 33 amends Part 2 to introduce notification obligations for those required to register for VAT under Schedule 9ZC to VATA. Regulations 34 to 37 amend Part 3 concerning VAT invoices to apply relevant EU rules concerning goods to Northern Ireland traders and regulations 38-44 retain the requirement for returns of information to

be provided by Northern Ireland taxable persons trading in goods with the EU. Regulations 45 to 52 amend Part 5 to restore references to acquisition tax and relevant warehousing regimes operating across the UK. Regulation 53 amends Part 7A concerning the flat-rate scheme for small traders to restore references to acquisition tax. Regulation 54 amends Part 12 concerning valuation of acquisitions so that it covers Northern Ireland. Regulation 55 amends Part 13 in relation to the specific case where a person has exercised an option to treat the distance selling of goods from Northern Ireland to a member State of the EU as taxable outside the United Kingdom even though the relevant threshold for registration in that member State has not been reached. The amendments preserve regulation 98 in modified form so that the place of supply rules in that provision apply only in relation to distance selling from Northern Ireland to the EU. Regulations 56-59 amend Part 14 concerning input tax and partial exemption. Regulations 57(b) and 58 insert provisions unconnected with the Protocol but relating to the appropriate treatment for input tax purposes of the export of certain financial services. Otherwise, these regulations make provision for the attribution of input tax where a partially exempt taxable person is deemed to have made a zero-rated supply of own goods as a result of the removal of those goods from Great Britain to Northern Ireland. Regulations 60-74 amend Part 16 to amend modifications of customs legislation and to make provision concerning certain descriptions of export. Regulations 75-79 amend and modify the application of Part 16A to make provision for Great Britain and Northern Ireland fiscal warehouses (and see also regulation 90 which amends Schedule 1A). Regulations 80-85 amend provisions relating to means of transport and new means of transport, the latter concept now confined to Northern Ireland-EU VAT treatment. Regulations 86-88 concern the provision of VAT refunds to overseas businesses, where different processes apply to tax on goods incurred by EU businesses in Northern Ireland compared to tax incurred on services or elsewhere in the UK. These regulations also make provision regarding the forwarding of equivalent VAT refund requests from Northern Ireland businesses to tax authorities in the EU. Regulation 89 amends Part 23 to insert the relevant cross-reference for DIY builders' claims.

Regulations 91-92 amend the Value Added Tax (Input Tax) (Specified Supplies) Order 1999 (S.I. 1999/3121). This amendment is unconnected with the Protocol and relates to the recovery of VAT incurred in respect of certain supplies of financial services.

Regulations 93-94 amend the Value Added Tax (Acquisitions) Relief Order 2002 (S.I. 2002/1935). That Order continues to have relevance for acquisitions between the EU and Northern Ireland. Part 3 of these Regulations makes amendments to it so that it continues to have application in relation to Northern Ireland.

Regulations 95-99 amend the Value Added Tax (Place of Supply of Goods) Order 2004 (SI 2004/3148). Part 2 of that Order makes provision establishing the place of supply of goods supplied in the course of passenger transport from one member State of the EU to another. These provisions will no longer be generally applicable in relation to passenger transport between Great Britain and the EU after the end of the implementation period provided for in the withdrawal agreement made between the United Kingdom and the EU concerning the United Kingdom's withdrawal from the Union. However, the provisions set out in the Order, will continue to apply in relation to Northern Ireland as prescribed in the Northern Ireland Protocol to the withdrawal agreement. The Order is also amended in relation to chain transactions to ensure that these provisions operate in relation to Northern Ireland.

Regulations 100-101 amend the Value Added Tax (Removal of Gas, Electricity, Heat and Cooling) Order 2010 (S.I. 2010/2925). As the provision will be needed in respect of removals from and to Northern Ireland from the EU, the Order is amended accordingly.

Regulations 102-103 amend the Value Added Tax (Section 55A)(Specified Goods and Excepted Supplies) Order 2014 (S.I. 2014/1458) which imposes a reverse charge in relation to certain descriptions of supply. Consequential amendments are made to references to a member State as a result of the UK's withdrawal from the EU.

Part 3 contains amendments to earlier EU exit legislation relating to VAT, principally the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019 (S.I. 2019/59) mentioned above: see regulation 104 and the Value Added Tax (Miscellaneous

Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/513). Some provisions of earlier EU exit legislation are simply omitted whilst other omissions are consequential on amendments made by Part 2 of these Regulations.

Regulation 105 amends the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/60) to reflect the differing customs provisions in place across the UK, to exclude those treated as having imported goods under Schedule 9ZC to VATA from the option of accounting for import VAT on a VAT return and to specify that the option is only available where goods are imported into the UK and not moved within the UK.

Regulations 106 and 107 amend and omit provisions made by the Value Added Tax and Excise Personal Reliefs (Special Visitors and Goods Permanently Imported) (EU Exit) Regulations 2019 (S.I. 2019/91) and the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/513) respectively in consequence of amendments made by this instrument.

Regulation 108 revokes the Value Added Tax (Input Tax) (Specified Supplies) (EU Exit) Regulations 2019 (S.I. 2019/175) and the Value Added Tax (Input Tax) (Specified Supplies) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/408) as the amendments contained in the former are not required and those contained in the latter instrument are now contained within these Regulations.

Part 4 contains savings and transitional provisions as a consequence of the amendments made in these Regulations, in the Taxation (Cross-border Trade) Act 2018 (c.22) and the Taxation (Post-transition Period) Act 2020 so as to prevent cases of double-taxation or non-taxation.

Any public notice referred to in these Regulations will be made available at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021> (or in a notice on the www.gov.uk website, as described in that link).

Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 261 for outside the UK enquiries) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St Vincent Street, Glasgow City, Glasgow, G2 5EA, United Kingdom.

The withdrawal agreement, which includes the Protocol on Ireland/Northern Ireland, is available at <https://www.legislation.gov.uk/eut/withdrawal-agreement/contents/adopted>.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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