

*This Statutory Instrument has been made, in part, to correct errors in S.I. 2020/1544 and is being issued free of charge to all known recipients of that Statutory Instrument.*

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STATUTORY INSTRUMENTS

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**2021 No. 1165**

**VALUE ADDED TAX**

**The Value Added Tax (Distance Selling and Miscellaneous  
Amendments No. 2) Regulations 2021**

*Approved by the House of Commons*

*Made - - - - at 11.17 a.m. on 25th October 2021*

*Laid before the House of Commons at 4.15 p.m. on 25th October 2021*

*Coming into force - - - - 1st December 2021*

The Treasury make these Regulations in exercise of the powers conferred by section 51(1)(a) and (3) of the Taxation (Cross-border Trade) Act 2018<sup>(a)</sup> and section 96(1)(a) and (3) of the Finance Act 2021<sup>(b)</sup>.

In accordance with section 51(1)(a) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate to make provision in regulation 4 relating to value added tax in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU.

In accordance with section 96(1)(a) of the Finance Act 2021, the Treasury consider it appropriate in relation to the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement<sup>(c)</sup> to make provision in these Regulations relating to value added tax for the purposes of, or in connection with, giving effect to Council Directive (EU) 2017/2455<sup>(d)</sup> of 5 December 2017 amending Directive 2006/112/EC<sup>(e)</sup> and Directive 2009/132/EC<sup>(f)</sup> as regards certain value added tax obligations for supplies of services and distance sales of goods.

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(a) 2018 c. 22. Section 51(1) permits “the appropriate Minister” to make provision relating to value added tax and under section 51(4)(b) “the appropriate Minister” means the Treasury.

(b) 2021 c. 26.

(c) See the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 1/01 at <https://www.legislation.gov.uk/eut/withdrawal-agreement/contents/adopted>.

(d) OJ L 348, 29.12.2017, p. 7-22. This Directive amended Council Directive (EU) 2006/112/EC to make provision in relation to distance selling. Further provision amending Council Directive (EU) 2006/112/EC has been made in connection with distance selling in Council Directive (EU) 2019/1995 of 21 November 2019 (OJ L 310, 2.12.2019, p. 1-5).

(e) OJ L 347, 11.12.2006, p. 1-118, as last amended by Council Directive (EU) 2021/1159 of 13 July 2021 (OJ L 250, 15.7.2021).

(f) OJ L 292, 10.11.2009, p. 5-30.

## **Citation and Commencement**

1. These Regulations may be cited as the Value Added Tax (Distance Selling and Miscellaneous Amendments No. 2) Regulations 2021 and come into force on 1st December 2021.

## **Amendments to Schedule 9ZA to the Value Added Tax Act 1994**

2. Schedule 9ZA to the Value Added Tax Act 1994(a) (VAT on acquisitions in Northern Ireland from member States) is amended as follows.

3. In paragraph 7(3) (identification of persons for the purposes of VAT in Northern Ireland), after paragraph (a) (but before the “or”) insert—

“(aa) the person is registered under the OSS scheme or a participant in a non-UK scheme within the meaning of Schedule 9ZD.”.

4. In paragraph 18A(2)(c), for “paragraph 80” substitute “paragraph 81”.

5. In paragraph 48(8)(b) (liability to be registered), omit “(and references to a “third country” and “third territory” were read accordingly as including Great Britain)”.

## **Amendment to Schedule 9ZB to the Value Added Tax Act 1994**

6. In Schedule 9ZB to the Value Added Tax Act 1994(b) (goods removed to or from Northern Ireland and supply rules), in paragraph 29(1)(c)(iii) (distance selling between EU and Northern Ireland: place of supply) after “or” insert “a participant in”.

## **Amendments to Schedule 9ZC to the Value Added Tax Act 1994**

7.—(1) In Schedule 9ZC to the Value Added Tax Act 1994(c) (online sales by overseas persons and low value importations: modifications relating to the Northern Ireland Protocol), in paragraph 1B, inserted section 5B (supplies of goods in Northern Ireland facilitated by online marketplaces: deemed supply) is amended as follows.

(2) In subsection (1)(c), for “IOSS” substitute “special”.

(3) In subsection (3)—

(a) in the words before paragraph (a), for “IOSS” substitute “special”;

(b) in paragraph (c), for “registered under” substitute “a participant in a special scheme within the meaning of”.

(4) In subsection (4)—

(a) in the words before paragraph (a), for “IOSS” substitute “special”;

(b) in paragraph (b) after “Great Britain” insert “or the Isle of Man”.

(5) In subsection (6)(a) after “Great Britain” insert “or the Isle of Man”.

*Rebecca Harris*

*James Morris*

At 11.17 a.m. on 25th October 2021 Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) 1994 c. 23. Schedule 9ZA was inserted by Part 1 of Schedule 2 to the Taxation (Post-Transition Period) Act 2020 (c. 26), paragraph 48(8) to (10) was inserted into that Schedule by Part 1 of Schedule 18 to the Finance Act 2021 and paragraph 18A was inserted by S.I. 2020/1544.

(b) Schedule 9ZB was inserted by Part 1 of Schedule 2 to the Taxation (Post-Transition Period) Act 2020 and paragraph 29(1)(c)(iii) was inserted into that Schedule by Part 1 of Schedule 18 to the Finance Act 2021.

(c) Schedule 9ZC was inserted by Part 2 of Schedule 3 to the Taxation (Post-Transition Period) Act 2020 and paragraph 1B was inserted into that Schedule by Part 4 of Schedule 18 to the Finance Act 2021.

## EXPLANATORY NOTE

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

These Regulations amend certain provisions in the Value Added Tax Act 1994 (c. 23) (“VATA”) which concern the application of VAT in relation to goods in Northern Ireland pursuant to the United Kingdom’s obligations under the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (“the Protocol”).

The amendments made by these Regulations include one minor correction in regulation 4. The other amendments are in relation to provisions about distance selling enacted in the Finance Act 2021 (“FA 2021”) which introduced two new VAT schemes applicable in relation to Northern Ireland by virtue of the United Kingdom’s participation in the Protocol. These new schemes are designed to simplify VAT accounting for the sale of goods direct to consumers by suppliers based in the EU and by suppliers who import goods into the EU for sale. The first of these schemes is the intra-Community distance selling one stop shop scheme, known as the OSS, which was enacted by FA 2021 as a new provision inserted into VATA in Schedule 9ZD. The second is the distance selling of imported goods scheme, known as the import one stop shop, or IOSS, which was similarly inserted in Schedule 9ZE to VATA. Both of these schemes only apply in the United Kingdom in relation to goods in Northern Ireland. FA 2021 also made consequential changes about distance selling to other provisions in VATA concerning VAT in Northern Ireland, namely in Schedules 9ZA, 9ZB and 9ZC.

Regulations 2 to 5 amend Schedule 9ZA to VATA.

Regulation 3 inserts a new provision into paragraph 7 of that Schedule to allow persons registered under the OSS scheme to be identified for the purposes of VAT in Northern Ireland.

Regulation 4 rectifies a minor error.

Regulation 5 omits superfluous wording in paragraph 48 of that Schedule in relation to a cross-reference to the definition of “intra-Community distance sales of goods” in Council Directive 2006/112/EC. This is the EU Directive which includes details of the OSS and IOSS schemes which all of the member States of the EU and the United Kingdom (but only in relation to goods in Northern Ireland) are required to enact in their domestic law.

Regulation 6 amends paragraph 29 of Schedule 9ZB to VATA which establishes rules for the place of supply (for VAT purposes) of the distance selling of goods from the EU to consumers in Northern Ireland. The amendment makes the provision consistent with the terminology used in Schedule 9ZD.

Regulation 7 amends paragraph 1B of Schedule 9ZC to VATA so that the references to the IOSS scheme in the inserted section 5B of VATA are consistent with terminology used in Schedule 9ZE to VATA, and that certain references to Great Britain are also applicable in relation to the Isle of Man.

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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