

**EXPLANATORY MEMORANDUM TO**  
**THE VALUE ADDED TAX (REVERSE CHARGE SALES STATEMENTS)**  
**(REVOCATION, SAVING AND TRANSITIONAL PROVISION) REGULATIONS**  
**2022**

**2022 No. 548**

**1. Introduction**

1.1 This Explanatory Memorandum has been prepared by Her Majesty’s Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument amends The Value Added Tax Regulations 1995 by revoking regulations 23A to 23D (“the regulations”). These regulations relate to the requirement for businesses registered for Value Added Tax (VAT) to submit a sales statement to HMRC on certain goods subject to a domestic reverse charge (“reverse charge”). These statements are known as Reverse Charge Sales Lists (“sales lists”) and by removing this requirement, businesses will no longer have to compile and submit information on a regular basis about their sales of mobile phones and computer chips. The instrument includes a transitional provision that requires a business under an obligation to submit a sales list by a date falling on or after 17 October 2022 to do so before that date.

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

3.1 None.

**4. Extent and Territorial Application**

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

6.1 The Value Added Tax Act 1994, as a general rule, requires a supplier of goods and services to account for VAT on those supplies. Section 55A of the Act (“section 55A”) requires VAT to be paid by the recipient of supplies (“a reverse charge”) if the supplies are of a type specified for that purpose in a Treasury order. A reverse charge prevents supplies of goods and services from being exploited by those engaged in missing trader VAT supply chain fraud.

6.2 The reverse charge for mobile telephones and integrated circuit devices (“mobile phones and computer chips”) was introduced by The Value Added Tax (Section 55A) (Specified Goods and Excepted Supplies) Order 2007 (S.I.2007/1417). This was

amended by The Value Added Tax (Section 55A) (Specified Goods and Services and Excepted Supplies) Order 2010 (S.I.2010/2239).

- 6.3 The introduction of the reverse charge required two amendments to the Value Added Tax Act 1994. Firstly, to provide powers for the introduction of the sales lists and secondly to include a penalty regime. The primary legislation will remain in place to allow HMRC to react quickly to any new fraud threat.

## **7. Policy background**

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

- 7.1 The requirement for businesses to compile and submit information about their sales of mobile phones and computer chips (sales lists) is being removed.
- 7.2 This is being done because HMRC has assessed that it no longer needs the data provided through sales lists because the fraud risk has reduced significantly over the years since the introduction of the reverse charge. It now has other, more effective, ways of monitoring any residual risk through operational and intelligence activity.
- 7.3 This instrument revokes the legislation that imposes this requirement.

### *Explanations*

#### What did any law do before the changes to be made by this instrument?

- 7.4 The reverse charge for mobile phones and computer chips was introduced on 1 June 2007 in order to prevent missing trader VAT supply chain fraud. With its introduction came a reporting requirement. For each customer a UK seller makes a reverse charge sale to, it must report to HMRC the relevant period, the UK VAT registration number of the customer and the total net value of reverse charge sales to that customer for each calendar month in the period. Nil returns are required where a business made no sales of these goods in that period but expects to do so in future.
- 7.5 Missing trader VAT supply chain fraud is a highly sophisticated and well organised criminal attack on the VAT system. The fraud is perpetrated through transaction chains involving supplies of high-value goods or services with the tax loss occurring when the VAT charged to and recovered from the customer by the supplier is not passed on to HMRC but is retained by the supplier.

This type of fraud has been used by criminals to steal billions of pounds in VAT from governments throughout the world. In the UK, the government has previously had to act to combat this type of fraud by introducing a VAT reverse charge: in the trading of carbon emissions allowances (from 1 November 2010), for gas and electricity (from 1 July 2014), for telecommunications services (from 1 February 2016), in the trading of renewable energy certificates (from 14 June 2019) and for construction services (from 1 March 2021). None of these other measures have a requirement to complete sales lists.

#### Why is it being changed?

- 7.6 Reverse charge accounting makes it impossible for fraudsters to perpetrate VAT missing trader supply chain fraud because the customer rather than the supplier accounts for the VAT due on the supply directly to HMRC.
- 7.7 HMRC has assessed that it no longer needs the data provided through sales lists because the fraud risk has reduced significantly over the years since the introduction

of the reverse charge. It now has other, more effective, ways of monitoring any residual risk through operational and intelligence activity.

*What will it now do?*

- 7.8 The reverse charge will remain in place even though the reporting requirement will be revoked and it will continue to prevent fraud in these sectors. Other associated legislation enabling a sales list to be required and a penalty regime to apply will also remain. This means that the powers are immediately available in the event that, due to unforeseen circumstances, the need arises to urgently introduce a sales list for a new or existing reverse charge.
- 7.9 HMRC has tackled and continues to tackle this VAT fraud operationally with success, reducing its impact on VAT receipts and successfully catching and prosecuting the perpetrators.

**8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to the withdrawal from the European Union.

**9. Consolidation**

- 9.1 There is no current plan to consolidate the various Treasury orders that specify the goods and services to which section 55A applies.

**10. Consultation outcome**

- 10.1 There has been no formal consultation with the trade sectors affected by this instrument. The number of business affected is small and they are already familiar with the reverse charge procedure and its reporting requirements. They may incur one-off costs to stop submitting sales lists but savings are likely to be made from not being required to complete sales list in future. This change may be well received as it reduces administrative burdens whilst still having the protection of the reverse charge and the confidence of a legitimate market to operate in.

**11. Guidance**

- 11.1 HMRC will update its existing guidance in [VAT Notice 735](#) to coincide with the effective date of this instrument.

**12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 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>.

**13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 Of the approximately 200 businesses in total affected by this instrument, the impact on small and micro businesses is negligible. Only those businesses that are VAT-registered and making sales of mobile phones and computer chips over £5,000 to

other VAT-registered businesses are required to complete sales lists. These businesses are already operating this reverse charge and submitting sales lists, will be familiar with the reporting requirements, will continue to account for VAT under these rules but will no longer incur the administrative burdens of submitting sales lists at the same time as their VAT returns.

#### **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is for HMRC to continue to monitor the extent of any VAT fraud in the sectors covered by the reverse charge to see if ending the reporting requirement has any adverse effect.
- 14.2 The instrument does not include a statutory review clause because it relates to tax and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

#### **15. Contact**

- 15.1 Paul Grimwood at HMRC email: [paul.grimwood@hmrc.gov.uk](mailto:paul.grimwood@hmrc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 James Smallbone, Deputy Director for VAT Fraud and Transition Readiness, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Lucy Frazer QC MP, Financial Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.