
STATUTORY INSTRUMENTS

2019 No. 105

**EXITING THE EUROPEAN UNION
VALUE ADDED TAX**

**The Taxation (Cross-border Trade) Act 2018 (Value Added
Tax Transitional Provisions) (EU Exit) Regulations 2019**

Made - - - - 24th January 2019

Coming into force in accordance with regulation 1(2)

The Treasury, in exercise of the powers conferred by sections 52(2) and 56(4) of the Taxation (Cross-border Trade) Act 2018(1), make the following Regulations.

In accordance with section 52(2) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, for the following Regulations to come into force on such day or days as the Treasury may by regulations under section 52 of that Act appoint.

Citation and commencement

1.—(1) These Regulations may be cited as the Taxation (Cross-border Trade) Act 2018 (Value Added Tax Transitional Provisions) (EU Exit) Regulations 2019.

(2) These Regulations come into force on such day or days as the Treasury may by regulations under section 52(2) of the Taxation (Cross-border Trade) Act 2018 (“the Act”) appoint.

Interpretation

2. In these Regulations—

“the Act” has the meaning given by regulation 1(2),

“VATA 1994” means the Value Added Tax Act 1994(2),

“Chapter 7” means Chapter 7 of Part 15 of the Customs (Import Duty) (EU Exit) Regulations 2018(3).

(1) 2018 c. 22; section 56(4) permits “the appropriate Minister” to make such transitional, transitory or saving provision in connection with the coming into force of any provision of the Act and under section 56(5)(b) “the appropriate Minister” means the Treasury.

(2) 1994 c. 23.

(3) S.I. 2018/1248.

Transitional provisions etc

3.—(1) The amendments made by Part 3 of the Act (value added tax) do not have effect in relation to supplies made, and acquisitions taking place, before exit day.

(2) In determining for the purposes of this regulation the time when a supply or acquisition of goods is made ignore sections 18(4)(a) and 18B(4) of VATA 1994(4).

(3) In determining for the purposes of this regulation the time when a supply of services is made—

- (a) invoices and other documents provided to any person before exit day are to be disregarded,
- (b) so much (if any) of any payment received by the supplier before exit day as relates to times on or after exit day are to be treated as received on exit day, and
- (c) so much (if any) of any payment received by the supplier on or after exit day as relates to times before exit day are to be treated as if they were received before exit day.

(4) A payment in respect of any services is to be taken for the purposes of paragraph (3) to relate to the time of the performance of those services.

(5) But where a payment is received in respect of any services the performance of which takes place over a period a part of which falls before exit day and a part of which does not—

- (a) an apportionment is to be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before exit day;
- (b) the payment is, to that extent to be taken for the purposes of paragraph (3) to relate to a time before exit day; and
- (c) the remainder, if any, of the payment is to be taken for the purposes of paragraph (3) to relate to times on or after exit day.

4.—(1) The amendments made by Part 3 of the Act do not have effect in relation to a supply of goods that involves the removal of the goods to the United Kingdom from a member State of the European Union, or an acquisition of goods in pursuance of such a supply, if by reason of Chapter 7 no import duty is chargeable in respect of the goods.

(2) Those amendments do not have effect in relation to a supply of goods that involves the removal of the goods to a member State of the European Union from the United Kingdom if by reason of EU legislation corresponding to Chapter 7 no customs duty is chargeable in respect of the goods.

5. Any reference to a section 55A statement in—

- (a) section 65 of VATA 1994 (inaccuracies in section 55A statement), or
- (b) section 66 of VATA 1994 (failure to submit section 55A statement)(5),

is to be read after exit day as including a reference to a statement which in accordance with regulations under paragraph 2(3) of Schedule 11 to VATA 1994 was required to be submitted before exit day.

(4) Section 18B was inserted by paragraph 5 of Schedule 3 to the Finance Act 1996 (c. 8). Sections 18(4)(a) and 18B(4) were amended by paragraphs 16 and 18 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22). Under section 57(3) of that Act those amendments will come into force on such day as the Treasury may by regulations appoint. No such regulations have been made at the time these Regulations are made.

(5) Sections 65 and 66 were amended by section 19(3) and (4) of the Finance Act 2006 (c. 25). Section 66 was amended by paragraph 13 of Schedule 1 to S.I. 2009/571. These sections were amended by paragraphs 59 and 60, Part 1 of Schedule 8 to the Taxation (Cross-border Trade) Act (c. 22). Under section 57(3) of that Act those amendments will come into force on such day as the Treasury may by regulations appoint. No such regulations have been made at the time these Regulations are made, but the same day will be appointed for the coming into force of those amendments and the coming into force of regulation 5 of these Regulations.

24th January 2019

Mike Freer
Craig Whittaker
Two of the Lord Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of transitional provisions to deal with some of the issues that will arise when amendments are made to primary value added tax law (“VAT”) in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom (“UK”) from the European Union (“EU”).

Regulation 1 provides for the commencement and regulation 2 lists definitions of terms used in the Regulations.

Regulation 3 states that the amendments made by Part 3 of the Taxation (Cross-border Trade) Act 2018 (“the Act”) (in relation to value added tax) do not have effect in relation to supplies made, or acquisitions taking place before exit day. In order to determine which supplies are made before exit day, paragraphs (2) to (5) provide specific rules regarding the time of supply for goods in warehouses and for the supply of services for the limited purpose of applying regulation 3(1) only.

Regulation 4(1) provides that the amendments in Part 3 of the Act do not apply to the removal of goods to the UK from a member State of the EU or an acquisition in pursuance of such a supply where no import duty is chargeable on the goods pursuant to Chapter 7 of Part 15 of the Customs (Import Duty) (EU Exit) Regulations 2018. Regulation 4(2) also disapplies the amendments in Part 3 of the Act to the supply of goods that involves the removal of goods to a member State of the EU from the UK if no import duty is chargeable on the goods by virtue of an EU equivalent to Chapter 7 of Part 15 of those Regulations. Chapter 7 of Part 15 relieves import duty on goods that are located within the customs territory of the EU but outside the UK where the goods are intended to be moved to, or through, the UK and the goods commence their movement to the UK before exit day.

Regulation 5 provides that the references to section 55A statements in sections 65 and 66 of the Value Added Tax Act 1994 are to be read as if the reference was to a statement which was required to be submitted before exit day pursuant to regulations made under paragraph 2(3) of Schedule 11 of that Act.

Any impacts in relation to these transitional provisions will be subsumed within the wider impact of the related changes. These impacts will be covered by an overarching HMRC impact assessment (second edition) and an overarching HMRC impact assessment for VAT and services, which will both be available on the website at <https://www.gov.uk/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.