
STATUTORY INSTRUMENTS

2021 No. 770 (C. 41)

VALUE ADDED TAX

The Finance Act 2021, Section 95 and Schedule 18
(Distance Selling: Northern Ireland) (Appointed Day
No. 1 and Transitory Provision) Regulations 2021

Made - - - - 28th June 2021

The Treasury make these Regulations in exercise of the powers conferred by section 95(3), (4), (7) and (8) of the Finance Act 2021⁽¹⁾.

In accordance with section 95(3) of the Finance Act 2021, the Treasury consider it appropriate, in connection with the coming into force of section 95 of, and Schedule 18 to, that Act, to make the transitory provision in regulations 5 to 8.

Citation

1. These Regulations may be cited as the Finance Act 2021, Section 95 and Schedule 18 (Distance Selling: Northern Ireland) (Appointed Day No. 1 and Transitory Provision) Regulations 2021.

Interpretation

2. In these Regulations—

“FA 2021” means the Finance Act 2021;

“Schedule 9ZD” means Schedule 9ZD to VATA 1994 as inserted by paragraph 6 of Schedule 18;

“Schedule 9ZE” means Schedule 9ZE to VATA 1994 as inserted by paragraph 6 of Schedule 18;

“Schedule 9ZF” means Schedule 9ZF to VATA 1994 as inserted by paragraph 6 of Schedule 18;

“Schedule 18” means Schedule 18 to FA 2021;

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

(1) 2021 c. 26.

(2) 1994 c. 23. Section 3 of the Taxation (Post-Transition Period) Act 2020 (c. 26) inserts section 40A and Schedules 9ZA to 9ZC into VATA 1994.

Commencement provisions

3. Section 95(1) of and Schedule 18 to FA 2021 so far as they are not already in force come into force on 1st July 2021 subject to the exceptions and restrictions set out in regulation 4.

4.—(1) The exceptions are—

- (a) Parts 2 and 5 of Schedule 9ZE;
- (b) Part 3 of Schedule 9ZE, except paragraph 10(5);
- (c) Paragraph 42(1)(a) and (b) of Part 7 of Schedule 9ZE;
- (d) Part 3 of Schedule 9ZF, except paragraphs 14 to 17.

(2) The restrictions are—

- (a) Paragraph 10(1) to (4) of Part 3 of Schedule 9ZE comes into force on 1st July 2021 for the purposes of establishing whether paragraph 10(5) applies (but not otherwise);
- (b) Paragraph 18 of Part 3 of Schedule 9ZF comes into force on 1st July 2021 so far as the provisions which it introduces (by way of modification of the Value Added Tax Regulations 1995(3)) relate to provisions in Schedule 9ZD and 9ZE which are brought into force by these Regulations (but not otherwise).

Transitory provisions

5. Schedule 9ZD is to be read as if, in Part 7 (interpretation), at the end of paragraph 38 there were inserted—

“(4) Notwithstanding the definition of the OSS scheme in sub-paragraph (1), the reference to a person who is registered under the OSS scheme in paragraph 14(1) is to be read as if it included a reference to a participant in a non-UK scheme.”.

6. Schedule 9ZE is to be read as if—

- (a) in Part 6 (supplementary provision), for the opening words of paragraph 34(3) there were substituted “A supply made by a participant in a special scheme is a “relevant supply” if —”;
- (b) in Part 8 (interpretation), after paragraph 43, there were inserted—

“Meaning of registration under the IOSS Scheme

43A. Notwithstanding the definition of the IOSS scheme in paragraph 43(1)—

- (a) for the purposes of establishing whether paragraph 10(5) applies (but not otherwise), the reference in paragraph 10(1)(b) to a person registered under the IOSS scheme is to be read as if it were a reference to a participant in a special scheme;
- (b) any reference to a person who is registered under the IOSS scheme in paragraphs 14(1), 37(b), 38(2)(c), 39(3), 39(5) and 41 is to be read as if it were a reference to a participant in a special scheme;
- (c) any reference to a person who is registered under Schedule 9ZE in section 5B(3) (as inserted by paragraph 1B of Schedule 9ZC) or paragraph 1(1A) of Schedule 1 (as inserted by paragraph 7 of Schedule 9ZF) is to be read as if it were a reference to a participant in a special scheme.”.

(3) [S.I. 1995/2518](#), to which there are amendments not relevant to these Regulations.

7. The modifications made by regulations 8 and 9 no longer have effect on or after 1st January 2022 or, if earlier, from such time as VATA 1994 is amended or modified to include provision having the same effect as those modifications.

Power for the Commissioners to make transitory provisions

8.—(1) The Commissioners for Her Majesty’s Revenue and Customs may, in a notice published by them, set out interim procedures and conditions for the purpose of establishing whether a supply qualifies for relief from VAT on importation in accordance with paragraph 37 of Schedule 9ZE.

(2) A notice made under this regulation no longer has effect on or after 1st April 2022.

(3) No notice may be made under this regulation on or after 1st April 2022.

28th June 2021

James Morris
Michael Tomlinson
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force on 1st July 2021 the bulk of the provisions of Schedule 18 to the Finance Act 2021 (c. 26) (“FA 2021”) related to value added tax and distance selling, which implement Council Directive (EU) 2017/2455 so far as relevant to the United Kingdom’s obligations under the Protocol on Ireland/Northern Ireland in the EU Withdrawal Agreement⁽⁴⁾ (“the Protocol”). These are the first appointed day Regulations made under s.95 of FA 2021.

Regulation 3 brings into force section 95(1) and Schedule 18 of FA 2021 to the extent that those provisions are not already in force and subject to the exceptions and restrictions in regulation 4.

Regulation 4 sets out the provisions in section 95(1) and Schedule 18 of FA 2021 that are not being brought into force by these Regulations, and those which are being brought into force to a limited extent.

Regulations 5 and 6 make transitory provisions to modify references related to Import One Stop Shop (IOSS). Regulation 7 provides that these temporary measures will only have effect until 31st December 2021 or, if earlier, the date when the modifications are made by way of amendment or modification to the Value Added Tax Act 1994 (c. 23).

Regulation 8 provides a power for the Commissioners for Her Majesty’s Revenue and Customs to make transitory provision in a public notice relating to interim procedures and conditions for establishing whether a supply qualifies for relief from import VAT under paragraph 37 of Schedule 9ZE. Any such notice will cease to have effect on 1st April 2022, and no notice may be made under regulation 8 on or after that date. A public notice made under regulation 8 will be made available 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 2621 for outside the UK requests) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St. Vincent Street, Glasgow City, Glasgow G2 5EA, United Kingdom.

A Tax Information and Impact Note has not been prepared for these Regulations as they give effect to previously announced policy.

(4) 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/eu/withdrawal-agreement/contents/adopted>. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.