
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments to value added tax (“VAT”) legislation.

Part 1 of these Regulations amends Schedules 9ZD and 9ZE, and Parts 1 and 2 of Schedule 9ZF, to the Value Added Tax Act 1994 (c. 23) (“VATA”). Those Schedules establish the rules for using two European Union (“EU”) special accounting schemes in relation to VAT in the United Kingdom (“UK”). The first scheme is known as the One Stop Shop scheme (“OSS”), which concerns accounting for distance selling within the EU and Northern Ireland. The second scheme is known as the Import One Stop Shop scheme (“IOSS”), which concerns accounting for distance selling from outside the territory of Northern Ireland and the EU into that territory.

Part 2 of these Regulations amends secondary legislation concerning VAT. These include amendments to the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the VAT Regulations”) to correct a minor error and to make provision in relation to the mechanisms for repayment of amounts paid in respect of import VAT, as well as amendments to the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546) (“the 2020 Regulations”) to provide for the VAT treatment of goods which are imported into Northern Ireland from outside the UK via Great Britain or the Isle of Man.

Regulations 3, 4, and 6 to 15, make changes to Schedule 9ZD to VATA to ensure that the same rules apply to persons registered for OSS in the UK as they do to persons registered for OSS outside the UK where supplies are treated as made in the UK and, accordingly, UK VAT is due. In particular, the rules make clear that any enforcement provisions, such as how a person is to account for adjustments, or how the UK is to assess for VAT or apply penalties or interest, under OSS apply in the same terms to all persons registered for the scheme and accounting for UK VAT. Regulation 5 introduces new paragraph 15A into Schedule 9ZD to make clear that a person that is registered for OSS and accounting for their supplies under that scheme is not subject to double taxation or double accounting if they are also registered for VAT in the UK under VATA.

Regulations 16 to 23 make changes to Schedule 9ZE to VATA to ensure that the same rules apply to persons registered for IOSS in the UK as they do to persons registered for IOSS outside of the UK where there is UK VAT due. In particular, the rules make clear that any enforcement provisions such as how the UK is to assess for VAT, or apply penalties or interest, under IOSS, apply in the same terms to all persons registered for the scheme and accounting for UK VAT.

Regulations 24 to 26 make changes to Parts 1 and 2 of Schedule 9ZF to VATA to ensure that the same rules apply to persons registered for OSS and IOSS in the UK as they do to persons registered for those schemes outside the UK, where there is UK VAT due. Regulation 25 modifies section 80 of VATA to make clear that the same rules in relation to overpayments apply in the same terms to all persons registered for the OSS and IOSS schemes and accounting for UK VAT. That regulation also modifies paragraph 4 of Schedule 11 to VATA to permit the Commissioners to request security for repayments made under OSS and IOSS rules, which brings the position in line with UK legislation where those schemes are not used. Regulation 26 modifies Schedule 24 to the Finance Act 2007 (c. 11) to make clear that penalties for errors made in returns apply equally to persons who have submitted returns under OSS or IOSS outside the UK as those who submit their returns to the UK directly. That regulation also corrects a minor error which does not obscure the legislative intent but which ought to be corrected to avoid misleading readers.

Regulations 27 to 31 amend the VAT Regulations. Regulation 28 inserts regulation 121E into the VAT Regulations in relation to an amount paid in respect of import VAT as the result of the entry

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of goods into Great Britain and regulation 30 inserts regulations 133AN, 133AO and 133AP into the VAT Regulations in relation to an amount of import VAT paid as the result of an entry of goods into Northern Ireland. Regulation 133AN provides that the scope of that regulation, and regulations 133AO and 133AP, is limited to import VAT incurred as a result of the entry of goods into Northern Ireland and lists the circumstances which may give rise to an entitlement to repayment of import VAT for the purposes of regulations 133AO and 133AP. Regulations 121E and 133AP provide that, where a taxable person who has opted not to account for an amount of import VAT using the postponed accounting procedure under regulation 4 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/60) becomes entitled to repayment of that amount, that person may now only claim the VAT by making a negative entry for the import VAT in the VAT payable portion of the VAT account and a negative entry for any input tax deducted in respect of the import VAT in the VAT allowable portion of the VAT account. Regulation 133AO provides that where a non-taxable person, or a person who has paid import VAT on behalf of a non-taxable person, becomes entitled to a repayment of an amount paid in respect of import VAT as the result of the entry of goods into Northern Ireland, that person may now only claim repayment of that amount using the mechanism prescribed for repayment of import duty by Chapter 2 of Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248). Regulation 31 also amends the VAT Regulations to clarify the wording of regulation 133E to correct a minor error which does not obscure the legislative intent but which ought to be corrected to avoid misleading readers.

Regulations 32 to 35 insert a new regulation 19A into the 2020 Regulations which applies where goods have been imported into the UK via Great Britain or imported into the Isle of Man for the purpose of delivery to Northern Ireland. Where a person (“P”) is liable for the VAT payable as a result of that importation (“the importation”) and is not already liable for the VAT due on the entry of the goods into Northern Ireland (“the NI entry”), P is deemed to be so liable but is also granted a credit (“the credit”). The credit is equal to the amount of the VAT due on the importation but only to the extent that that sum does not exceed the VAT due on the NI entry. P is deemed to have paid that credit in respect of the VAT payable on the entry. Where the amount due in respect of the entry exceeds the credit, P must account for the excess in the form and manner specified by the Commissioners for HMRC (either in a public notice or in a particular case).

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>.