

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (AMENDMENT) (No. 3)
REGULATIONS 2006**

2006 No. 3292

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

These Regulations amend the Value Added Tax Regulations 1995 (S.I. 1995/2518) (the "principal Regulations") to take account of the accession of Bulgaria and Romania to the European Union. They come into force on 1st January 2007.

3. Matters of special interest to the Select Committee on Statutory Instruments

None

4. Legislative Background

4.1 This instrument amends regulations 2, 117 and 138 of the principal Regulations. It makes necessary consequential amendments to the principal Regulations following the accession of Bulgaria and Romania to the European Union.

4.2 A transposition note is attached in the annex to this memorandum.

4.3 The FCO deposited an Explanatory Memorandum (13244/04) on 25 October 2004 concerning a Commission strategy paper about progress in the enlargement process of Bulgaria and Romania. The Commons European Scrutiny Committee cleared this document from scrutiny on 12 January 2005 as 'politically important'. The Lords EU Select Committee cleared the EM on 23 March 2005.

4.4 A further EM (5551/05) was deposited on 16 March 2005 on the Commission's opinion on the applications for accession of Bulgaria and Romania. This was cleared by the Commons on 23 March 2005 as 'not politically or legally important' and by the Lords on 8 April 2005.

4.5 The FCO deposited a subsequent EM (12824/05) on 10 November 2005 on a Commission monitoring report on the state of preparedness of Bulgaria and Romania for EU accession. The Commons cleared this EM on 23 November 2005 as 'politically important'. The Lords cleared the document on 15 November 2005.

4.6 An EM (9465/06) for the May 2006 Monitoring Report was submitted for Parliamentary scrutiny on 7 June 2006. The Commons European Scrutiny Committee cleared the EM as 'politically important' on 14 June 2006. The Lords European Union Committee sifted the EM to the Select Committee on 13 June 2006.

4.7 A recent Council Directive (Council Directive 2006/98/EC adapting certain Directives in the field of taxation, by reason of the accession of Bulgaria and Romania; “the 2006 Directive”) makes necessary consequential amendments to a number of European Directives arising out of the accession of Bulgaria and Romania to the European Union. The 2006 Directive was adopted on 20 November 2006. It has not been published in the Official Journal yet.

4.8 A further EM (13085/06) relating to the proposal for the 2006 Directive was cleared by the Commons European Scrutiny Committee in its 39th Report as a document not raising questions of sufficient legal or political importance to warrant a substantive report to the House.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 This instrument makes consequential amendments to UK VAT legislation following the accession of Bulgaria and Romania to the European Union with effect from 1 January 2007. The explanatory note to the instrument provides an explanation of the changes made.

7.2 HM Revenue and Customs will publicise information on the accession of Bulgaria and Romania on the HMRC website and the public notices published by HMRC, such as Notice 725 (The Single Market), are being updated to reflect the forthcoming changes.

7.3 HMRC National Advice Service gives telephone support for business and can answer queries on enlargement.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is nil.

9. Contact

Graeme Osborne at HM Revenue & Customs. Tel: 0207 147 0485 or e-mail: graeme.osborne@hmrc.gsi.gov.uk can answer any queries regarding this instrument.

Transposition Note setting out how the Value Added Tax (Amendment) (No 3) Regulations 2006 (SI 2006/xxxx) implement the requirements of Council Directive 77/388/EC, Council Directive 2006/98/EC and Council Regulation (EC) No. 1791/2006

The Directives

Council Directive 77/388/EC of 17 May 1977 (OJ No L145,13.6.1977, p1) on the harmonization of the laws of the Member States relating to turnover taxes – common system of value added tax: uniform basis of assessment.

Council Directive 2006/98/EC of 20 November 2006 (not yet published in the Official Journal) adapting certain Directives in the field of taxation, by reason of the accession of Bulgaria and Romania.

Council Directive 77/388/EEC

The Directive provides the framework governing the harmonization of the laws of the Member States relating to VAT. The Directive is implemented in the UK by the Value Added Tax Act 1994 (c.23) and various statutory instruments, including the Value Added Tax Regulations 1995 (SI 1995/2518) ("the principal Regulations").

Council Directive 2006/98/EC

The Directive adapts a number of Directives in the field of taxation following the accession of Bulgaria and Romania to the European Union. This transposition note concerns amendments made to Directive 77/388/EEC. Separate transposition notes have been prepared in relation to amendments made to other Directives¹.

Article	Objectives	Implementation	Responsibility
Article 22(1)(d)	Provides that, subject to certain exceptions, Member States must take measures to identify taxable persons by means of an individual number. Each number must have a prefix by which the Member State of issue may be	Regulation 3 of the Value Added Tax (Amendment) (No. 3) Regulations 2006.	Commissioners for Revenue and Customs

¹ See the transposition notes concerning the Mutual Assistance Provisions Order 2006, the Reporting of Savings Income Information (Amendment) Regulations 2006 and The Exemption from Income Tax for Certain Interest and Royalty Payments (etc) Order 2006.

	identified. Following accession this provision will apply to the identification of taxable persons in Bulgaria and Romania		
Article 28p, as amended by article 1 of, and paragraph 2 of the Annex to, Directive 2006/98/EC	Provides for certain transitional measures in respect of new Member States at the time of their accession to the European Union. The effect of this measure is to treat certain goods as if they were imported into the United Kingdom from outside the Member States.	Regulation 5 of the Value Added Tax (Amendment) (No. 3) Regulations 20006	Commissioners for Revenue and Customs

Council Regulation (EC) No. 1791/2006

Council Regulation (EC) No. 1791/2006 amends a number of Council Regulations, including the Community Customs Code. It amends the Community Customs Code to bring Romania and Bulgaria within the customs territory of the Community (see article 1 of, and chapter 12 of the Annex to, the Regulation). Regulation 4 of the instrument updates existing references in the principal Regulations to the Community Customs Code to take account of this change.