

**EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (PAYMENTS ON ACCOUNT) (AMENDMENT)
ORDER 2011**

2011 No. 21

1. This explanatory memorandum has been prepared by HM Revenue and Customs 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 (Payments on Account) Order 1993 (S.I. 1993/2001) (“the Principal Order”) to increase the thresholds above which a person becomes liable to make payments on account of VAT and below which a person ceases to be liable to make payments on account of VAT to reflect the impact of the change in the standard rate of VAT from 17.5% to 20% with effect from 4 January 2011.

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

3.1 None.

4. Legislative Context

4.1 Where a person’s liability to pay VAT exceeds the annual threshold or the in-year threshold specified in the Principal Order (articles 5(1) and 6(1) respectively) that person becomes liable to make payments on account of VAT. The current annual and in-year thresholds are £2,000,000.

4.2 Where a person’s liability to pay VAT falls below the in-year threshold specified in the Principal Order (article 7) that person ceases to be liable to make payments on account of VAT. The current threshold is £1,600,000.

4.3 The instrument increases the annual threshold to £2,300,000 (article 5(1)) with effect from 1 December 2011 and the in-year thresholds to £2,300,000 and £1,800,000 (articles 6(1) and (7) respectively) with effect from 1 June 2011.

4.4 The instrument also makes consequential amendments to articles 2(1) and 16(1) of the Principal Order to reflect the fact that the article 5(1) and article 6(1) thresholds will differ between 1 June and 30 November 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

The Exchequer Secretary to the Treasury, David Gauke MP, has made the following statement regarding Human Rights:

In my view the provisions of the Value Added Tax (Payments on Account) (Amendment) Order 2011 are compatible with the Convention rights.

7. **Policy background**

- *What is being done and why*

7.1 On 22 June 2010 the Chancellor announced an increase in the standard rate of VAT from 17.5% to 20% to take effect on 4 January 2011.

7.2 This will have the effect of increasing the VAT liability of VAT-registered businesses. As businesses are required to make payments on account (POA) depending on their VAT liability, this will mean more businesses having to do so unless the POA thresholds are amended. This instrument therefore increases the thresholds in line with the standard rate increase.

7.3 Businesses are currently required to make payments on account when their annual VAT liability exceeds £2 million, either in a fixed twelve month period covering their four quarterly accounting periods before 1 December each year; or in any rolling twelve month period. Article 2(b) amends the fixed twelve month threshold to £2.3 million. Article 2(c) of this instrument amends the rolling twelve month threshold to the same figure.

7.4 Businesses whose annual VAT liability falls below £2 million are not put in the POA regime for the next year. This figure will also be £2.3 million once Article 2(b) has come into effect.

7.5 A business may request to leave the POA regime if at any time its VAT liability in the previous twelve months is below £1.6 million. Article 2(d) of the instrument amends this figure to £1.8 million.

7.6 There is no one point during the year when increasing the thresholds will prevent additional businesses being temporarily subject to the POA regime. The instrument has a twofold implementation date which maintains, as far as practicable, the status quo of the POA regime by minimising the effect on Exchequer cash flow, and affecting a relatively small number of businesses which are brought into the regime, or kept in it, solely because of the new VAT rate. It does this by amending the fixed twelve month threshold with effect from 1 December 2011, whilst amending both the joining and leaving rolling twelve month thresholds with effect from 1 June 2011.

- *Consolidation*

7.7 There are no projects on hand to consolidate the Principal Order.

8. Consultation outcome

8.1 The changes effected by this instrument are required as a result of the increase in the standard rate of VAT. As this is a straightforward change to the POA thresholds no consultation has taken place.

9. Guidance

9.1 This instrument does not amend the substantive POA regime. Notice 700/60 published in October 2009 provides guidance on the POA regime. The new thresholds and the dates from which they will apply have been publicised in a number of documents including Revenue and Customs Brief 52/10 issued on 14 December 2010 and which is available at www.hmrc.gov.uk/briefs/vat/brief5210.htm.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument as it has a negligible impact on business, charities or voluntary bodies.

10.4 An Impact Assessment of the effect that the increase in the standard rate of VAT will have on the costs of business and the voluntary sector is available at www.hmrc.gov.uk/better-regulation/ia.htm.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 HMRC will monitor the effect of the changes to the thresholds.

12.2 The operation of the POA regime is reviewed on an ongoing basis.

13. Contact

Stephen Davies at HM Revenue and Customs Tel: 0151 703 8653 or email: stephen.c.davies@hmrc.gsi.gov.uk can answer any queries regarding the instrument.