EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (AMENDMENT) (No. 2) REGULATIONS 2013

2013 No. 2241

1. This explanatory memorandum has been prepared by HM Revenue and Customs ('HMRC') and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes two amendments to Part 16 (Importations, Exportations and Removals) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) ('the Principal Regulations'). The first ensures that it fully reflects EU law requirements. The second corrects an outdated reference to excise law.

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

3.1 None

4. Legislative Context

4.1 This instrument amends the Principal Regulations.

4.2 A Transposition Note covering the first change referred to above is also provided with this Explanatory Memorandum.

5. Territorial Extent and Application

5.1 This instrument applies to all of the UK.

6. European Convention on Human Rights

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

7. Policy background

7.1 In principle, no VAT is due on sales of goods which are exported from the UK to destinations outside the European Union. Such sales are "zero-rated". Strict conditions apply to such sales and those conditions are set down in law. Currently, UK law stipulates that VAT must be charged on certain sales for export to customers who are VAT registered in the UK but permanently established elsewhere.

7.2 Under EU law (Council Directive 2006/112/EC, Article 146(1)(b)), no VAT is due in certain circumstances where sales of goods for export are made to customers who are established outside the Member State where the supply is made. Whether such a customer is VAT registered in that Member State makes no difference to the VAT treatment of the supply as a matter of EU law. The UK is obliged to implement this provision and therefore UK law cannot exclude VAT registered businesses from the scope of the export exemption if those businesses are not established in the UK. This instrument amends the Principal Regulations to implement the part of EU law not properly reflected in existing UK law.

7.3 The Principal Regulations also set out conditions which must be satisfied so that no VAT need be charged on supplies of goods dispatched to other EU Member States. Where those goods are subject to excise duty, the Regulations currently stipulate that they must be removed in accordance with the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992. These regulations were revoked in 2010 and replaced by the Excise Goods (Holding, Movement and Duty Point) Regulations 2010. This instrument amends the Principal Regulations to reflect the correct part of Excise law.

Consolidation

7.4 There are no projects currently on hand to consolidate the Principal Regulations.

8. Consultation outcome

8.1 HMRC consulted on these changes between 13 May and 5 July 2013. The purpose of the consultation was to establish whether the proposed changes to VAT law achieve the intended result and to understand the impact of the changes on affected businesses. The 8 week consultation period reflects the technical nature of the changes.

8.2 There were 6 responses from representative bodies. Each response was carefully considered and summarised in a Summary of Responses document which is available on HM Government website at https://www.gov.uk/government/publications?publication_filter_option=consultations.

9. Guidance

9.1 HMRC will issue further publicity and guidance to provide affected businesses with more information about the impact of the changes. Web guidance and public notices will also be updated to ensure the changes are accurately reflected.

10. Impact

10.1 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

11. Regulating small business

11.1 The legislation applies to small business. The changes extend the scope of zero-rating to transactions not previously covered in the UK. As such, they are beneficial to UK business and will have a positive impact on small businesses.

12. Monitoring & review

12.1 As the changes are technical and are likely to have minimal impact no formal monitoring is planned.

13. Contact

John Bryning at the HM Revenue and Customs. Tel: 03000 540786 or email: john.bryning@hmrc.gsi.gov.uk can answer any queries regarding the instrument.