

EXPLANATORY MEMORANDUM TO
THE VALUE ADDED TAX (IMPORTED GOODS) RELIEF (AMENDMENT) ORDER
2014

2014 No. 2364

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

2. Purpose of the instrument

2.1 This instrument amends Group 8 of Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984 ("the Order") by substituting new Notes (2) and (3). The existing Notes (2) and (3) restrict the relief afforded by Item 8 of Group 8, known as low value consignment relief, in the case of certain importations of goods from the Channel Islands. This instrument seeks to ensure that that restriction on the relief only applies to goods imported on mail order from the Channel Islands.

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

3.1 None.

4. Legislative Context

4.1 Article 2(1)(d) of Council Directive 2006/112/EC on the common system of value added tax¹ ("the Principal VAT Directive") requires member States to charge VAT on the importation of goods. This includes the importation of goods which are in free circulation from a third territory forming part of the Community customs territory. The Channel Islands is such a territory (see Articles 6 and 30 of the Principal VAT Directive). Accordingly, section 1(1)(c) of the VAT Act 1994 charges VAT on the importation of goods from places outside the member States.

4.2 Article 143(1)(b) of the Principal VAT Directive, however, requires member States to exempt the final importation of certain goods from VAT. Such goods include those referred to in Article 23 of Council Directive 2009/132/EC², namely goods of a total value not exceeding 10 Euros (although member States can grant exemption for imported goods of a total value of more than 10 Euros but not exceeding 22 Euros). This exemption is often referred to in the UK as "low value consignment relief" and is implemented in the UK by article 5 and item 8 of Group 8 of Schedule 2 to the Order.

¹ OJ No L 347, 11.12.06, p1.

² OJ No L 292, 10.11.09, p5.

4.3 Article 23 of Council Directive 2009/132/EC also permits member States to exclude goods which have been imported on mail order from low value consignment relief and thus to charge VAT on their importation. Section 199 of the Finance Act 2012 amended the Order by inserting Notes (2) and (3) into Group 8 of Schedule 2 to the Order. Those Notes excluded goods imported from the Channel Islands under a distance selling arrangement (as defined) from the low value consignment relief conferred by article 5 and item 8 of Group 8 of Schedule 2 to the Order.

4.4 This instrument substitutes new Notes (2) and (3) into Group 8 of Schedule 2 to the Order. It excludes goods imported from the Channel Islands on mail order (as defined) from the low value consignment relief conferred by article 5 and item 8. The reason for this change is explained under the heading “Policy background”. Briefly, however, HMRC has concluded that section 199 of the Finance Act 2012 had the unintended consequence of excluding certain transactions from low value consignment relief which were not “mail order” transactions. This instrument seeks to correct that unintended consequence.

5. Territorial Extent and Application

5.1 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 The low value consignment relief was withdrawn on goods imported into the UK from the Channel Islands from 1 April 2012, that were made under a “distance selling arrangement”. The definition was intended to encompass mail order transactions only.

7.2 However, the amendment made to the Order in 2012 went too far and, in consequence, some goods that were not imported on mail order were caught by the legislation and incorrectly denied the benefit of the low value consignment relief to which they were entitled.

7.3 This instrument corrects this and removes non mail order transactions from the exclusions.

- Consolidation

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

8. Consultation outcome

8.1 A short Technical Consultation was carried out. There was one comment from a Channel Island businessman. He contends the revision does not go far enough and that the definition of “mail order” is still too wide. He believes import VAT relief should be made available when a Channel Islands business contracts with a UK based trader acting as an agent in the sale. The Treasury and HMRC do not agree and no changes have been made to the definition in consequence..

8.2 This amendment only affects the Channel Islands, and in turn, is only relevant to a small number of businesses on the Islands, who send low value goods to the UK following a sale other than by mail order.

9. Guidance

9.1 This amendment only impacts a small number of businesses in the Channel Islands who export low value goods to the UK. An explanatory letter will be sent to the Commerce and Employment Office in Guernsey, and to the Economic Development Department in Jersey.

10. Impact

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

10.2 The impact on the public sector is nil.

10.3 A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The changes will have limited impact. No formal monitoring is planned but will be part of HMRC’s normal compliance activity.

13. Contact

Mrs Diane Evans at the HMRC Business Tax Customs Directorate, email: diane.evans@hmrc.gsi.gov.uk can answer any queries regarding the instrument.