
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in sections 51, 52 and 56 of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA”) in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union.

The Regulations make consequential amendments to secondary legislation relating to value added tax (“VAT”) in line with changes made by the European Union (Withdrawal) Act 2018 (c. 16) and TCTA. They revoke legislation relating to VAT which is inoperable as a result of the abolition of acquisition VAT by the TCTA.

The Regulations are made to address failures of retained EU law to operate effectively, and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Under regulation 1 the Regulations are to come into force on such day or days as the Treasury may appoint.

Part 2 amends secondary legislation relating to VAT, including the Value Added Tax Regulations 1995 (“the principal VAT Regulations”). Amendments are made to reflect the fact that the United Kingdom is no longer a member State of the EU and that EU member States are now treated in the same way as the rest of the world vis-à-vis the United Kingdom. Amendments are made as a consequence of the abolition of acquisition VAT and extension of import VAT to EU member States and to reflect the new definition of importation and other new terminology, such as “temporary admission procedure” in TCTA.

Amendments to the Value Added Tax (Payments on Account) Order 1993 (regulation 9) take account of new accounting procedures for import VAT introduced in the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019.

Part 3 revokes legislation relating to VAT which is inoperable as a result of the abolition of acquisition VAT by, and introduction of new customs procedures under, the TCTA. It also revokes legislation relating to VAT which is spent as a result of these revocations. The Value Added Tax (Removal of Goods) Order 1992 sets out various circumstances in which movements of goods between EU member States will not be treated as a supply of goods. The Value Added Tax (Treatment of Transactions) (No. 2) Order 1992 treats the supply to a Central Bank of gold by a supplier in an EU member State as not giving rise to an acquisition of goods. The Value Added Tax (Acquisitions Relief) Order 2002 provides that no VAT is payable on an acquisition of goods from an EU member State where, had the goods been imported from outside the European Union, relief would have been given. The Value Added Tax (Removal of Gas, Electricity, Heat and Cooling) Order 2010 makes provision in relation to the removal of gas, electricity, heat or cooling supplied through a network situated within the territory of an EU member State. The Value Added Tax (Research for European Infrastructure Consortia) Order 2012 provides VAT relief on imports or acquisitions of goods by a European Research Infrastructure Consortium. The Value Added Tax (Removal of Goods) (Amendment) Order 2012 amends the Value Added Tax (Removal of Goods) Order 1992 and is spent as a result of the revocation of that Order.

This instrument will be covered by an overarching HMRC impact assessment (second edition) which will be published and available on the website at <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>.