

2019 No. 60

EXITING THE EUROPEAN UNION

VALUE ADDED TAX

**The Value Added Tax (Accounting Procedures for Import VAT
for VAT Registered Persons and Amendment) (EU Exit)
Regulations 2019**

Made - - - - 21st January 2019

Laid before the House of Commons 22nd January 2019

Coming into force in accordance with regulation 1.

The Treasury in exercise of the powers conferred by sections 51(1)(a), 52(2) and 56(1) of the Taxation (Cross-border Trade) Act 2018(a) make the following Regulations.

In accordance with section 51(1)(a) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, to make the following provision in relation to value added tax.

In accordance with section 52(2) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, for the following Regulations to come into force on such day as the Treasury may by regulations under section 52 of that Act appoint.

In accordance with section 56(1) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate to make the following provision in consequence of that Act.

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 and come into force on such day as the Treasury may by regulations under section 52 of the Taxation (Cross-border) Trade Act 2018 appoint.

Interpretation

2. In these Regulations-

(a) 2018 c. 22; section 51(1)(a) permits “the appropriate Minister” to make provision relating to value added tax and under section 51(4)(b) “the appropriate Minister” means the Treasury; section 56(1) permits “the appropriate Minister” to make provision in consequence of the Act and under section 56(5)(b) “the appropriate Minister” means the Treasury.

“the Act” means the Value Added Tax Act 1994(a);

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“import VAT” means value added tax chargeable by virtue of section 1(1)(c)(b) of the Act;

“prescribed accounting period” has the meaning given by section 25(1)(c) of the Act (payment by reference to accounting periods and credit for input tax against output tax);

“registered person” means a person registered under Schedule 1, 1A or 3A to the Act(d);

“relevant goods” means goods imported into the United Kingdom by a registered person used or to be used for the purposes of any business carried on by the registered person but does not include goods which are the subject of a qualifying importation within the meaning of regulation 3 of the Value Added Tax (Postal Packets and Amendment) (EU Exit) Regulations 2018(e);

“return” means a return which is required to be made in accordance with regulation 25 of the VAT Regulations 1995(f);

“TCTA 2018” means the Taxation (Cross-border Trade) Act 2018;

“tribunal” has the meaning given by section 82 of the Act(g);

“VAT registration number” means the number allocated by the Commissioners to a person for the purposes of registration under Schedule 1, 1A or 3A of the Act.

Application of these Regulations

3.—(1) These Regulations apply to a registered person who is liable for import VAT on relevant goods.

(2) A person to whom these Regulations apply (P) may have those relevant goods delivered or removed without payment of the VAT chargeable on the importation and may instead account for that VAT in accordance with these Regulations.

(3) The effect of section 16(2) of the Act (application of customs enactments)(h) is modified to the extent that these Regulations make different provision for accounting for import VAT on relevant goods.

Accounting for import VAT

4. Subject to regulation 9, P may account for import VAT on relevant goods on the return P is required to make for the prescribed accounting period in which the liability to the import VAT on those goods is incurred if the conditions set out in regulation 5 are met.

5.—(1) Where the relevant goods are declared for the free-circulation procedure for the purposes of Part 1 of TCTA 2018, P’s VAT registration number must be shown on that declaration; and

(2) Where the relevant goods are declared for a special customs procedure for the purposes of Part 1 of TCTA 2018, P must in relation to those goods comply with any conditions imposed by or under Part 1 of TCTA 2018 so far as relating to the special customs procedure for which those goods were declared.

6. P is required, and is presumed to be so required, for the purposes of the Act, to account for import VAT on relevant goods in accordance with these Regulations if, by the last day on which P

(a) 1994 c. 23.

(b) Section 1(1)(c) was substituted by section 41(2)(b) of TCTA 2018 (c.22) but that substitution is not yet in force.

(c) Section 25(1) was amended by paragraph 25 of Schedule 8 to TCTA 2018 but that amendment is not yet in force.

(d) Schedule 1A was inserted by section 203 of, and paragraph 1 of Schedule 28 to, the Finance Act 2012 (c. 14). Schedule 3A was inserted by section 136(8) of, and Schedule 38 to, the Finance Act 2000 (c. 17). Schedule 1 was amended by paragraph 81 of Schedule 8 to TCTA 2018. Schedule 1A was amended by paragraph 82 of Schedule 8 to TCTA 2018. Schedule 3A was amended by paragraph 85 of Schedule 8 to TCTA 2018. The amendments made by TCTA 2018 are not yet in force.

(e) S.I. 2018/1376. This S.I. is not yet in force.

(f) S.I. 1995/2518. Relevant amending instruments are S.I. 2012/1899, S.I. 2000/794, S.I. 2009/2978 and 2019/59.

(g) Section 82 was substituted by S.I. 2009/56.

(h) Section 16 was substituted by paragraph 13 of Schedule 8 to the TCTA 2018 but that substitution is not yet in force.

is required to furnish a return for a prescribed accounting period in which liability to import VAT on those goods is incurred, P has not otherwise accounted for the import VAT.

Estimation of import VAT

7. Regulation 28 of the Value Added Tax Regulations 1995(a) (estimation of output tax) applies for the purpose of these Regulations as if the reference to “output tax” in that regulation includes import VAT chargeable on the importation of relevant goods.

Interest in cases of official error

8. Section 78 of the Act(b) applies for the purposes of these Regulations as if references to “output tax” in both paragraph (1)(a) and paragraph (5)(a) include import VAT chargeable on the importation of relevant goods.

Withdrawal of the option of a registered person to account for and pay import VAT under these Regulations

9.—(1) The Commissioners may direct that a registered person may not account for and pay import VAT as provided for in these Regulations where they consider it necessary to do so for the protection of the revenue.

(2) A direction of the Commissioners under this Regulation must be given by notice in writing to the registered person and takes effect from a date not earlier than the date of the direction.

Appeals

10.—(1) An appeal lies to a tribunal with respect to any of the following—

- (a) a decision as to any liability of the Commissioners to pay interest under regulation 8 or the amount of interest so payable;
- (b) a direction of the Commissioners under regulation 9.

(2) Part 5 of the Act (reviews and appeals), and any order or regulations made under that Part, have effect as if an appeal under this regulation were an appeal which lies to the tribunal under section 83(1) of the Act (but not under any particular paragraph of that subsection).

11. Where an appeal is against a direction of the Commissioners under regulation 9 the tribunal must not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for the direction.

Amendments to the Value Added Tax Regulations 1995

12.—(1) The Value Added Tax Regulations 1995(c) are amended as follows.

(2) In regulation 2(1) omit the definitions of “datapost packet”, “post office”, “postal packet” and “universal service provider”;

(3) In regulation 32—

- (a) omit paragraphs (3)(b) and (4)(b); and
- (b) insert at the appropriate place in paragraph (3) “(baa) a total of the import VAT which the taxable person is accounting for on his return for that period in accordance with the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019.”;

(a) S.I. 1995/2518.

(b) Section 78(1) was amended by section 4 of the Finance (No.2) Act 2005 (c. 22).

(c) S.I. 1995/2518. Regulation 2 was amended by paragraph 23 of Schedule 8 to the Postal Services Act 2000 (c. 26). Other relevant amending instruments are S.I. 1996/1250, S.I. 2007/1418, S.I. 2011/2085 and S.I. 2019/59.

- (4) In regulation 39—
- (a) in paragraph (2) for “the total of the output tax” to the end substitute “the total of the import VAT to be accounted for on the return for the period shall be entered instead in the box opposite the legend “VAT due in this period on imports accounted for through postponed accounting””; and
 - (b) in paragraph (3) for “(including acquisitions from other member States)” substitute “(including imports)”;
- (5) In regulation 40(1) —
- (a) at the appropriate place insert “(ba) all import VAT for which he is accounting on that return in accordance with the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019”; and
 - (b) omit paragraph (d)(iii), but not the final “and”;
- (6) Omit regulation 122.

*Rebecca Harris
Craig Whittaker*

21st January 2019

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the power in sections 51(1)(a), 52(2) and 56(1) of the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA 2018”) in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the European Union and in consequence of TCTA 2018. They are to come into force on such day as the Treasury by regulations may appoint.

The Regulations make provision in relation to accounting and payment for import VAT on the importation of goods by persons registered for VAT.

Regulation 1 provides for commencement and regulation 2 lists definitions used in the Regulations.

Regulation 3 provides that a person registered for VAT and liable to pay import VAT on relevant imported goods may have any such goods delivered or removed without payment of import VAT where that person accounts for the import VAT under the Regulations. This regulation also modifies the application of section 16(2) of the Value Added Tax Act 1994 (“VATA”) (which provides for import VAT on the importation of goods to be charged and payable as if it were import duty within Part 1 of TCTA 2018).

Regulation 4 provides that a person registered for VAT and choosing to account for import VAT under these Regulations may do so on the return that person is required to make for a prescribed accounting period provided that the conditions in regulation 5 are met.

Regulation 5 sets out the conditions to be met for the application of regulation 4. A registered person’s value added tax registration number must be shown on a declaration for the free circulation procedure that that person makes on the importation of goods in accordance with Part 1 of TCTA 2018. Where relevant goods are declared for a special customs procedure, the registered person must comply with requirements imposed by or under that Part.

Regulation 6 provides that a person to whom the Regulations apply is required to account for import VAT on the person’s return for a prescribed accounting period if the person has not

otherwise accounted for it by the due date for furnishing that return, and is presumed to be so required for the purposes of VATA.

Regulations 7 and 8 modify respectively the application of regulation 28 of the VAT Regulations 1995 (S.I. 1995/2518) (“the Principal Regulations”) and section 78 of VATA for the purposes of the Regulations.

Regulation 9 allows Her Majesty’s Revenue and Customs (“HMRC”) to direct that a person registered for VAT may not account for and pay import VAT under the Regulations if they consider it necessary to do so for the protection of the revenue. Such a direction must be notified in writing and takes effect from a day not earlier than the date of the direction.

Regulations 10 and 11 provide for a right of appeal to the tribunal against a decision of HMRC made under regulation 8 or 9 and applies Part 5 of VATA (“Reviews and Appeals”) for the purposes of the Regulations.

Regulation 12 amends and omits certain provisions in the Principal Regulations.

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

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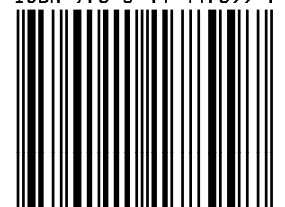
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