

2020 No. 1495

EXITING THE EUROPEAN UNION

VALUE ADDED TAX

The Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020

Made - - - - 9th December 2020

Laid before the House of Commons 10th December 2020

Coming into force in accordance with regulations 1(2)

The Treasury, in exercise of the powers conferred by sections 51, 52 and 56 of the Taxation (Cross-border Trade) Act 2018(a) (“TCTA”), and section 86(1) of, and paragraph 1(3) of Schedule 23 to, the Finance Act 2011(b), and the Commissioners for Her Majesty’s Revenue and Customs, in exercise of the powers conferred by sections 16A of the Value Added Tax Act 1994(c), and sections 20 and 52 of, and paragraph 3(1)(c) of Schedule 6 to, TCTA 2018(d), make the following regulations.

The Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU to make provision in relation to value added tax, including such provision as might be made by Act of Parliament, and to make provision, including

-
- (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 51(3) permits regulations under the section to make such provision as might be made by Act of Parliament. Section 52(2) permits subordinate legislation made under this Act or any other enactment relating to value added tax to provide for commencement by Appointed Day Regulations by the Treasury where the person making the legislation considers this appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU. Section 52(5) provides power to make consequential or transitional provision if the person making the legislation considers this appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU. Section 52(6) sets out what the Treasury power to make Appointed Day Regulations under section 52 includes. Section 56(1) and (3) permit “the appropriate Minister” to make appropriate provision in consequence of this Act, including transitional or transitory provision and savings and under section 56(5)(b) “the appropriate Minister” means the Treasury. Section 56(4) permits “the appropriate Minister” to make such transitional, transitory or saving provision as the appropriate Minister considers appropriate in connection with the coming into force of any provision of the Act and under section 56(5)(b) “the appropriate Minister” means the Treasury. Section 56(7) provides that any power to make regulations under that section includes power to make provision by reference to things specified in a notice published in accordance with the regulations.
- (b) 2011 c. 11.
- (c) 1994 c. 23. Section 96(1) of the Act defines “the Commissioners” as meaning “the Commissioners of Customs and Excise” and “regulations” as meaning regulations made by the Commissioners under the Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(1) of which provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs. Section 16A was inserted by section 43 of and paragraphs 1 and 14 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22) and commenced by S.I. 2018/1362.
- (d) Section 20 of TCTA 2018 (c. 22) gives effect to Schedule 6 to the Act, dealing with notification of liability, payment etc of import duty.

transitional, transitory or saving provision, in consequence of, and in connection with the coming into force of, TCTA 2018.

In accordance with section 52(2) of TCTA 2018, the Commissioners and the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, for these Regulations to come into force on such day or days as the Treasury may by regulations under section 52 of TCTA 2018 appoint.

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020.

(2) These Regulations come into force on such day or days as the Treasury may by regulations under section 52 of the Taxation (Cross-border Trade) Act 2018 appoint.

Interpretation - general

2. In these Regulations—

“Commissioners” means HMRC Commissioners;

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

“the VAT Regulations” means the Value Added Tax Regulations 1995(a);

“VATA 1994” means the Value Added Tax Act 1994(b).

PART 2

Phasing in of border controls: accounting for import VAT

CHAPTER 1

Preliminary

Interpretation of Part 2

3. In Part 2—

“import VAT” means value added tax chargeable by virtue of section 1(1)(c)(e) of VATA 1994;

“prescribed accounting period” has the meaning given by section 25(1)(d) of VATA 1994;

“registered for VAT” refers to registration under Schedule 1 or 3A to VATA 1994(e);

(a) S.I. 1995/2518. For relevant amendments see footnotes below.

(b) 1994 c. 23. For relevant amendments see footnotes below.

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

(d) Section 25(1) is amended by section 43 of, and paragraph 25 of Schedule 8 to, TCTA 2018 but that amendment is not yet in force.

(e) Schedule 1 was amended by section 26 of, and paragraph 13 of Schedule 3 to, the Finance Act 1996 (c. 8), sections 31 and 32 of, and paragraph 1 of Schedule 18 to, the Finance Act 1997 (c. 16), section 136(6) of the Finance Act 2000 (c. 17), section 23 of, and paragraphs 1 and 3 of Schedule 2 to, the Finance Act 2003 (c. 14), section 100(8) and (10) of the Finance Act 2007 (c. 11), sections 203 and 204 of, and paragraphs 2, 11, 12 and 13 of Schedule 28 and paragraphs 1 and 8 of Schedule 29 to, the Finance Act 2012 (c. 14), and section 43 of, and paragraphs 1 and 81 of Schedule 8 to, TCTA 2018. The amendments made by TCTA 2018 are not yet in force. The thresholds in Schedule 1 were most recently amended by S.I. 2017/290.

“relevant importation” has the meaning given by regulation 6;

“transitional EIDR procedure” has the meaning given by regulation 29D(1) of the Customs (Import Duty) (EU Exit) Regulations 2018^(a) and “transitional simplified Customs declaration” has the meaning given by regulation 14 of those Regulations.

CHAPTER 2

Accounting for import VAT by VAT registered persons making transitional simplified Customs declarations using the EIDR procedure

Application of this Chapter

4. This Chapter applies to a person who—

- (a) makes a transitional simplified Customs declaration in accordance with regulation 29C(1)(a) of the Customs (Import Duty) (EU Exit) Regulations 2018, or makes a declaration that is treated as being made for the purposes of that regulation by regulation 37(1A) of those Regulations, in respect of an importation of goods into Great Britain from the EU, and
- (b) is registered, or required to be registered, for VAT at the time the person makes that declaration.

Obligation to account for and pay import VAT in accordance with this Chapter

5.—(1) A person to whom this Chapter applies (P) must account for and pay import VAT on goods which comprise a relevant importation in accordance with the provision made by this Chapter.

(2) The effect of section 16(2) of VATA 1994 (application of customs enactments)^(b) is modified to the extent that this Chapter makes different provision for accounting for import VAT, including the timing of such accounting, on a relevant importation.

Relevant importation

6. In this Chapter a “relevant importation” is an importation of goods into Great Britain from the EU where the goods are—

- (a) chargeable with import VAT for which P is liable,
- (b) used or to be used by P for the purposes of a business P carries on,
- (c) required to be declared for the free circulation procedure under Part 1 of TCTA 2018 during the period beginning at IP completion day and ending on 30th June 2021, and
- (d) not of a description excluded from the transitional EIDR procedure by virtue of regulation 29C(4) of the Customs (Import Duty) (EU Exit) Regulations 2018.

Obligation to account for import VAT on VAT return

7. P must account for and pay the import VAT on goods which comprise a relevant importation on the return that P is required to make for the prescribed accounting period in which the liability for the import VAT is incurred.

(a) S.I. 2018/1248; relevantly amended by S.I. 2020/1088 (not yet fully in force).

(b) Section 16 was substituted by section 43 of, and paragraph 13 of Schedule 8 to, TCTA 2018 but that substitution is not yet in force.

Application with modifications of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019

8. The following provisions of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(a) apply for the purposes of this Chapter with, where applicable, the stated modification—

- (a) regulation 8 (interest in cases of official error) applies as if the reference to the importation of relevant goods were a reference to a relevant importation;
- (b) regulation 10(1)(a) and (2) (appeals).

Modification of the VAT Regulations where this Chapter applies

9. Where this Chapter applies the following provisions of the VAT Regulations(b) are to be applied with the stated modifications—

- (a) regulation 28 (estimation of output tax) is to be read as if—
 - (i) the reference to “output tax” includes import VAT chargeable on goods comprising a relevant importation; and
 - (ii) the words from “in the next prescribed accounting period” to the end were “in the prescribed accounting period in which the Commissioners make available to the person details of the amount of import duty due from the person on goods comprising a relevant importation (and in this regulation “import duty” means import duty charged under section 1 of the Taxation (Cross-border Trade) Act 2018).”;
- (b) regulation 29(3) (claims for input tax) is to be read as if the words from “in the next prescribed accounting period” to the end read “in the prescribed accounting period in which the Commissioners make available to the person details of the amount of import duty due from the person in that prescribed accounting period on goods comprising a relevant importation (and “import duty” in this regulation means import duty charged under section 1 of the Taxation (Cross-border Trade) Act 2018).”;
- (c) regulation 32(3)(baa) (the VAT account) and regulation 40(1)(ba) (VAT to be accounted for on returns and payment of VAT) are to be read as if after “2019” were added “or Chapter 2 of Part 2 of the Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020(c).”.

CHAPTER 3

Accounting for import VAT: other circumstances

Power to make provision by public notice for bringing into account import VAT

10.—(1) The Commissioners may by public notice(d) make such provision for, or in connection with, the bringing into account of import VAT as they consider appropriate in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are that a person purports to make a transitional simplified Customs declaration in accordance with regulation 29C(1)(a) of the Customs (Import Duty) (EU Exit) Regulations 2018 in respect of an importation of goods into Great Britain from the EU but—

(a) S.I. 2019/60; this instrument is not yet in force.

(b) S.I. 1995/2518; relevantly amended by S.I. 1997/1086, 2003/1114, 2009/586, 2019/59 and 2019/60. The amendments made by S.I. 2019/59 and S.I. 2019/60 are not yet in force.

(c) This instrument.

(d) Any public notice made under this provision will be published at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 261 for outside the UK enquiries) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St Vincent Street, Glasgow City, Glasgow, G2 5EA, United Kingdom.

- (a) the person is ineligible to do so;
- (b) the person purports to do so in respect of goods which are of a description not eligible for the transitional EIDR procedure; or
- (c) the declaration is incomplete.

PART 3

Saving and transitional provision for repayments to Community traders

Saving and transitional provision for repayments to Community traders

11.—(1) The omission of Part 20 (repayments to Community traders) (regulations 173 to 184) of the VAT Regulations(a) by regulation 71 of the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019(b) does not have effect where—

- (a) a relevant claim is made on or after IP completion day; or
- (b) a relevant claim is made before IP completion day but is still being processed by the Commissioners at IP completion day; or
- (c) a claimant who has made a relevant claim is required to repay an amount to the Commissioners under regulation 173D(3) on or after IP completion day.

(2) In this regulation a relevant claim is a claim—

- (a) for a repayment of VAT under regulation 173B, or
- (b) for an additional repayment of VAT under regulation 173D(2),

that, in either case, as at IP completion day the claimant was entitled to make under Part 20 as it had effect immediately before IP completion day.

(3) A person may make a relevant claim in accordance with this regulation provided that the person does so on or before 31st March 2021.

(4) Where paragraph (1)(a) applies, a relevant claim must relate to either of the following periods, which are “repayment periods” for the purpose of regulation 173G—

- (a) the period from 1st January to 31st December 2019, or
- (b) the period from 1st January 2020 to IP completion day.

(5) Where the Commissioners receive a relevant claim they must forward it on or before 30th April 2021 to the tax authorities of the member State from which the repayment or additional repayment is claimed, and to this extent the omission of section 39A(c) (applications for forwarding of VAT repayment claims to other member States) of the Value Added Tax Act 1994 by paragraph 42 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018(d) does not have effect.

(6) Where, in relation to a relevant claim that falls within paragraph (1)(a) or (b), the Commissioners make a request under regulation 173R (requests for further information or a document), for paragraph (1)(b) of that regulation read “a request made to the competent authority of a member State of the EU”.

(7) Where paragraph (1)(c) applies, the amount must be repaid to the Commissioners in such form or manner and at such time as the Commissioners may prescribe in a public notice(e).

(a) S.I.1995/2518; Part 20 was amended by S.I. 2009/3241, 2010/2940 and 2014/2430.

(b) S.I. 2019/59; these Regulations are not yet in force.

(c) Section 39A was inserted into the Value Added Tax Act 1994 (c. 23) by section 77 of the Finance Act 2009 (c. 10).

(d) 2018 c. 22; paragraph 42 of Schedule 8 is not yet in force.

(e) Any public notice made under this provision will be published at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 261 for outside the UK enquiries) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St Vincent Street, Glasgow City, Glasgow, G2 5EA, United Kingdom.

(8) Where a person has made a relevant claim in relation to the period in paragraph (4)(a) and that claim was based on a provisional attribution of input tax under Article 175(2) of Directive 2006/112/EC^(a) as applied in the claimant's member State, the subsequent adjustment to the attribution of input tax under Article 175(3) of that Directive must be made on or before 31st March 2021.

(9) Where a person has made a relevant claim in relation to the period in paragraph (4)(b) and the claim is based on a provisional attribution of input tax under Article 175(2) of Directive 2006/112/EC as applied in the claimant's member State, any subsequent adjustment to the attribution of input tax must be made under regulation 12 of these Regulations.

Transitional provision for partial exemption adjustments relating to the period from 1st January 2020 to IP completion day

12.—(1) Subject to paragraph (2), where regulation 11(9) applies and a person is required or wishes to make an adjustment to a provisional attribution of input tax for the period from 1st January 2020 to IP completion day, the person must do so by making a claim using the procedure in Part 21 (regulations 185 to 197) of the VAT Regulations^(b) as it has effect on and after IP completion day.

(2) Any claim relating to the period from 1st January 2020 to IP completion day must be made on or before 31st December 2021.

PART 4

Saving provision for electronic, telecommunication and broadcasting services: non-Union and Union schemes

Interpretation of Part 4

13. In Part 4—

“Part 26” means Part 26 (UK Union and non-Union special accounting schemes: registration, notification of changes, and returns) (regulations 214 to 218) of the VAT Regulations^(c);

“Part 27” means Part 27 (non-UK Union and non-Union special accounting schemes: adjustments, claims and error correction) (regulations 219 to 223) of the VAT Regulations^(d);

“Schedule 3B” means Schedule 3B (electronic, telecommunication and broadcasting services: non-Union scheme) to VATA 1994^(e);

“Schedule 3BA” means Schedule 3BA (electronic, telecommunication and broadcasting services: Union scheme) to the VATA 1994^(f).

(a) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. OJ L 347 11.12.2006, p 1-118. Article 175 has not been amended. A link to the Official Journal version will be provided on legislation.gov.uk.

(b) Part 21 was amended by S.I. 2004/3140, 2009/3241, 2011/1043, 2012/1899 and 2019/59. The amendments made by S.I. 2019/59 are not yet in force.

(c) S.I. 1995/2518; Part 26 (regulations 214 to 218) was inserted by S.I. 2014/2430 and is omitted by regulation 79 of S.I. 2019/59 (the omission is not yet in force).

(d) Part 27 (regulations 219 to 223) was inserted by S.I. 2014/2430 and is omitted by regulation 80 of S.I. 2019/59 (the omission is not yet in force).

(e) 1994; c. 23. Schedule 3B was inserted by section 23 of, and paragraphs 1 and 4 of Schedule 2 to, the Finance Act 2003 (c. 14) and amended by section 103 and paragraphs 3 to 10 of Schedule 22 to the Finance Act 2014 (c. 26) and S.I. 2017/778 and 2018/1197. Schedule 3B is omitted by section 43 of, and paragraph 86 of Schedule 8 to, TCTA 2018 (the omission is not yet in force).

(f) Schedule 3BA was inserted by section 103 of, and paragraph 1 of Schedule 22 to, the Finance Act 2014 (c. 26) and amended by S.I. 2017/778. Schedule 3BA is omitted by section 43 of, and paragraph 87 of Schedule 8 to, TCTA 2018 (the omission is not yet in force).

Saving provision for electronic, telecommunication and broadcasting services: non-Union scheme

14.—(1) Schedule 3B continues to apply in relation to supplies made before IP completion day despite its omission by paragraph 86 of Schedule 8 to TCTA 2018(a).

(2) To the extent that it continues to apply, Schedule 3B has effect subject to such modifications as may be specified in a notice published by the Commissioners(b).

Saving provision for electronic, telecommunication and broadcasting services: Union scheme

15.—(1) Schedule 3BA continues to apply in relation to supplies made before IP completion day despite its omission by paragraph 87 of Schedule 8 to TCTA 2018(c).

(2) To the extent that it continues to apply, Schedule 3BA has effect subject to such modifications as may be specified in a notice published by the Commissioners(d).

Saving provision for references to Schedules 3B and 3BA in VATA 1994

16.—(1) Any references to Schedule 3B or to Schedule 3BA in VATA 1994 (other than those mentioned in regulations 14 and 15) that have been omitted by Schedule 8 to TCTA 2018(e) continue to apply in relation to supplies made before IP completion day as if they had not been so omitted, but only to the extent that Schedules 3B and 3BA continue to have effect in accordance with these Regulations.

(2) To the extent that they continue to apply, references to Schedule 3B or to Schedule 3BA in VATA 1994 have effect subject to such modifications as may be specified in a notice published by the Commissioners(f).

Saving provision for Part 26 of the Value Added Tax Regulations 1995 (UK Union and non-Union special accounting schemes: registration, notification of changes, and returns)

17. (1) Part 26 continues to apply in relation to supplies made before IP completion day despite its omission by regulation 79 of the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019(g).

(2) To the extent that it continues to apply, Part 26 has effect subject to such modifications as may be specified in a notice published by the Commissioners(h).

Saving provision for Part 27 of the Value Added Tax Regulations 1995 (non-UK Union and non-Union special accounting schemes: adjustments, claims and error correction)

18.—(1) Part 27 continues to apply in relation to supplies made before IP completion day despite its omission by regulation 80 of the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019(i).

(a) Paragraph 86 is not yet in force.

(b) A notice published under these Regulations is available at <https://www.gov.uk/guidance/vat-place-of-supply-of-services-notice-741a#sec15>. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 261 for outside the UK enquiries) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St Vincent Street, Glasgow City, Glasgow, G2 5EA, United Kingdom.

(c) Paragraph 87 is not yet in force.

(d) See footnote to regulation 14(2) of these Regulations.

(e) References to Schedule 3B or to Schedule 3BA in VATA 1994 that have been omitted by section 43 of, and Schedule 8 to, TCTA 2018 are: section 3A (supplies of electronic, telecommunication and broadcasting services: special accounting schemes); section 76(1) and (3A) (assessment of amounts due by way of penalty, interest or surcharge); section 76A(1) and (3) (section 76: cases involving special accounting schemes); section 80(7) (credit for, or repayment of, overstated or overpaid VAT); section 84(6) (further provisions relating to appeals); paragraph 13(8) of Schedule 1 (registration of taxable supplies: UK establishment – cancellation of registration); paragraph 12 of Schedule 1A (registration in respect of taxable supplies: non-UK establishment – cancellation of registration).

(f) See footnote to regulation 14(2) of these Regulations.

(g) S.I. 2019/59; regulation 79 is not yet in force.

(h) See footnote to regulation 14(2) of these Regulations.

(i) S.I. 2019/59; regulation 80 is not yet in force.

(2) To the extent that it continues to apply, Part 27 has effect subject to such modifications as may be specified in a notice published by the Commissioners^(a).

PART 5

Amendments to EU Exit Regulations

Amendment of the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019

19.—(1) The Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019^(b) are amended as follows.

(2) In regulation 83 (amendment of the Value Added Tax (Place of Supply of Goods) Order 2004^(c)), after paragraph (2) insert—

“(3) Omit Part 4 (chain transactions) (regulations 15 to 18).”

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

20.—(1) The Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019^(d) are amended as follows.

(2) In regulation 2 (interpretation), for the definition of “relevant goods” substitute—

““relevant goods” means goods imported into the United Kingdom by a registered person which are 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 declaration by a qualifying traveller within the meaning of regulation 39B of the Customs (Import Duty) (EU Exit) Regulations 2018^(e)”;

(3) In regulation 3(1), after “relevant goods” insert “ (but this is subject to Part 2 of the Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020^(f))”.

(4) In regulation 12—

(a) in paragraph (3)(b), for the full stop after “2019” substitute a comma;

(b) for sub-paragraph (a) of paragraph (4) substitute—

“(a) in paragraph (2), omit “, except that the total of the output tax due” to the end except for the final full stop; and”.

Amendment of the Taxation (Cross-border Trade) Act 2018 (Value Added Tax Transitional Provisions) (EU Exit) Regulations 2019

21.—(1) The Taxation (Cross-border Trade) Act 2018 (Value Added Tax Transitional Provisions) (EU Exit) Regulations 2019^(g) are amended as follows.

(2) In regulation 2, omit the definition for “Chapter 7”.

(3) In regulation 3, in each place it occurs, for “exit day” substitute “IP completion day”.

(4) For regulation 4, substitute—

(a) See footnote to regulation 14(2) of these Regulations.

(b) S.I. 2019/59; this instrument is not yet in force.

(c) S.I. 2004/3148; Part 4 (chain transactions) was inserted by S.I. 2019/1507.

(d) S.I. 2019/60; this instrument is not yet in force.

(e) S.I. 2018/1248; regulation 39B was inserted by S.I. 2019/486 and is not yet in force.

(f) This instrument.

(g) S.I. 2019/105.

“4. The amendments made by Part 3 of the Act(a) do not have effect in relation to a supply of goods dispatched or transported from the territory of the United Kingdom to the territory of a member State of the EU, or vice versa, provided that the dispatch or transport started before IP completion day and ended thereafter.”.

(5) In regulation 5, in each place it occurs, for “exit day” substitute “IP completion day”.

Amendment of the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019

22.—(1) The Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019(b) are amended as follows.

(2) Omit regulation 8.

(3) In regulation 9, in each place it occurs, for “exit day” substitute “IP completion day”.

(4) For regulation 10, substitute—

“10. The amendments made in relation to value added tax by any regulations made by the appropriate Minister under the Taxation (Cross-border Trade) Act 2018, or by statutory instrument under any other enactment in consequence of, or otherwise in connection with, the United Kingdom’s withdrawal from the EU, do not have effect in relation to a supply of goods dispatched or transported from the territory of the United Kingdom to the territory of a member State of the EU, or vice versa, provided that the dispatch or transport started before IP completion day and ended thereafter.”.

(5) Omit Part 4 (regulation 15).

Amendment of the Value Added Tax (Miscellaneous Amendments and Transitional Provisions) (EU Exit) Regulations 2019

23.—(1) The Value Added Tax (Miscellaneous Amendments and Transitional Provisions) (EU Exit) Regulations 2019(c) are amended as follows.

(2) Omit Part 4 (transitional provisions in relation to value added tax) (regulations 4 and 5).

(3) In Part 5 (fulfilment businesses) (regulations 6 to 15), in each place it occurs (including the headings), for “exit day” substitute “IP completion day”.

PART 6

Revocation of retained direct EU legislation concerning simplification measures for VAT on fuel and hiring or leasing a car where car is not used entirely for business purposes

Interpretation

24. In Part 6 “the EU legislation” means—

(a) Council Implementing Decision (EU) 2018/1918 authorising the United Kingdom to apply a special measure derogating from Articles 16 and 168 of Directive 2006/112/EC on the common system of value added tax(d); and

(b) Council Implementing Decision (EU) 2019/2230 of 19 December 2019 amending Decision 2007/884/EC authorising the United Kingdom to continue to apply a measure

(a) “The Act” here means the Taxation (Cross-border Trade) Act 2018 (c. 22); Part 3 is not yet fully in force.

(b) S.I. 2019/513; amended by S.I. 2019/1214. This instrument is not yet in force.

(c) S.I. 2019/1214; this instrument is not yet in force.

(d) EUDN 2018/1918; the Decision is a simplification measure to provide, on a flat rate basis, for the proportion of value added tax recoverable for expenditure on fuel used for private purposes in business cars.

derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax(a).

25. The EU legislation ceases to have effect.

PART 7

Other revocations

26. The following Regulations are revoked, so far as not already revoked—

- (a) The Value Added Tax (Postal Packets and Amendment) (EU Exit) Regulations 2018(b);
- (b) The Data-gathering Powers (Relevant Data) (Amendment) (EU Exit) Regulations 2019(c).

9th December 2020

Two of the Commissioners of Her Majesty's Revenue and Customs

Justin Holliday
Angela MacDonald

9th December 2020

Two of the Lords Commissioners for Her Majesty's Treasury

James Morris
Rebecca Harris

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make appropriate provision relating to value added tax in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU, including such provision as might be made by Act of Parliament. They include appropriate saving and transitional provision in consequence of, and in connection with the coming into force of, the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA 2018”).

These Regulations include amendments to EU Exit legislation required in consequence of the United Kingdom having agreed a Withdrawal Agreement with the EU on 19th October 2019(d) (“the Withdrawal Agreement”) and having entered a transition period from Exit day until IP completion day. Articles 51, 53 and 99 of the Withdrawal Agreement are relevant to value added tax. The rights, powers, liabilities, obligations, restrictions, remedies and procedures created by or

-
- (a) EUDN 2019/2230; the Decision is a simplification measure to restrict to 50% the right of taxable persons to deduct value added tax charged on the cost of hiring or leasing a car where the car is not used entirely for business purposes.
 - (b) S.I. 2018/1376; these Regulations are only partially in force (see regulation 3 of S.I. 2019/104 (C. 5)).
 - (c) S.I. 2019/1221; these Regulations are not in force. Regulation 1(2) of the Regulations provides for the Regulations to come into force on such day as the Treasury may by regulations under section 52(2) of the Taxation (Cross-border Trade) Act 2018 (c. 22) appoint but no such day has been appointed.
 - (d) See the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 1/01 at <https://www.legislation.gov.uk/eut/withdrawal-agreement/contents/adopted>. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

arising under the Withdrawal Agreement are given legal effect by section 7A of the European Union (Withdrawal) Act 2018 (c. 16)(a).

Part 1 (regulations 1 to 2) deals with citation and commencement of these Regulations, which are to be brought into force by Appointed Day regulations made by the Treasury under section 52 TCTA 2018.

Part 2 (regulations 3 to 10) makes appropriate transitional provision in relation to the phasing in of border controls, to indicate how import VAT is to be accounted for by VAT registered persons making transitional simplified customs declarations using the EIDR procedure. Regulation 10 permits the Commissioners to make further provision by public notice where a person purports to make a transitional simplified customs declaration using the EIDR procedure in circumstances where either the person or the goods are ineligible to do so, or the declaration is incomplete. Any public notice made under this provision will be published at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 261 for outside the UK enquiries) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St Vincent Street, Glasgow City, Glasgow, G2 5EA, United Kingdom.

Part 3 (regulations 11 to 12) makes saving and transitional provision in relation to repayments to Community traders, including partial exemption adjustments where there has been a provisional attribution of input tax, for the period from 1 January 2020 to IP completion day. Regulation 11(7) permits the Commissioners to prescribe by public notice the form or manner for repaying amounts where regulation 11(1)(c) applies. Any public notice made under this provision will be published at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021>. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 261 for outside the UK enquiries) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St Vincent Street, Glasgow City, Glasgow, G2 5EA, United Kingdom.

The provision made by Part 3 is appropriate in consequence of, and in connection with, the withdrawal of the United Kingdom from the EU and in connection with the coming into force of regulation 71 of the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019 (S.I. 2019/59), which omits Part 20 (repayments to Community traders) (regulations 173 to 184) from the Value Added Tax Regulations 1995 (S.I. 1995/2518).

Part 4 (regulations 13 to 18) makes appropriate saving provision in relation to special VAT accounting schemes established under EU law for supplies of digital services. These schemes are commonly referred to as the Mini One Stop Shop (MOSS) and they permit suppliers of such services to account for VAT in any of the member States of the EU (and in the United Kingdom) rather than being required to register and account for such supplies in every country in which they are made. For the United Kingdom, these schemes will be closed when the transition period provided for in the Withdrawal Agreement comes to an end. Although the special schemes will be closed, provision is made to continue their effect in modified form but only in relation to supplies that have taken place before IP completion day.

Regulations 14 to 16 make appropriate saving provision for supplies of digital services made before IP completion day in connection with the coming into force of provisions of TCTA 2018, which omit Schedules 3B (electronic, telecommunication and broadcasting services: non-Union scheme) and 3BA (electronic, telecommunication and broadcasting services: Union scheme), as well as references to these Schedules, from the Value Added Tax Act 1994 (c. 23).

Regulations 17 and 18 make appropriate saving provision in connection with the coming into force of regulations 79 and 80 of the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019 (S.I. 2019/59), which respectively omit Part 26 (UK

(a) Section 7A was inserted into the European Union (Withdrawal) Act 2018 (c. 16) by section 5 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

Union and non-Union special accounting schemes: registration, notification of changes, and returns) and Part 27 (Non-UK Union and non-Union special accounting schemes: adjustments, claims and error correction) from the Value Added Tax Regulations 1995 (S.I. 1995/2518).

Each of the saving provisions in Part 4 provides that the saving has effect subject to such modifications as may be specified in a notice published by the Commissioners. The notice is available at <https://www.gov.uk/guidance/vat-place-of-supply-of-services-notice-741a#sec15>. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 261 for outside the UK enquiries) or by writing to HM Revenue and Customs – VAT Written Enquiries Team, 123 St Vincent Street, Glasgow City, Glasgow, G2 5EA, United Kingdom.

Article 51(4) of the Withdrawal Agreement contains specific provision in relation to special accounting scheme amendments, which must be submitted at the latest on 31st December 2021.

Part 5 (regulations 19 to 23) makes amendments to EU Exit Regulations S.I. 2019/59, S.I. 2019/60, S.I. 2019/105, S.I. 2019/513 and S.I. 2019/1214 (“the EU Exit Regulations”). References to ‘exit day’ are amended to ‘IP completion day’ and other changes are made in consequence of new legislation coming into force and to reflect updated references since the EU Exit Regulations were made, as well as in consequence of the United Kingdom entering a transition period from Exit day until IP completion day, and in consequence of the United Kingdom entering into the Withdrawal Agreement with the EU.

Part 6 (regulations 24 to 25) revokes two EU Council Decisions incorporated into domestic law as a result of section 3 of the European Union (Withdrawal) Act 2018 (c. 16). These Decisions gave authority for the United Kingdom to derogate from certain provisions in Council Directive 2006/112/EC concerning value added tax (the principal VAT Directive). Such authority is no longer required at the end of the transition period. The domestic primary and secondary legislation which gives effect to the derogations is unaffected.

Part 7 (regulation 26) revokes the Value Added Tax (Postal Packets and Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1376), which are only partially in force, and the Data-gathering Powers (Relevant Data) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/1221), which are not in force.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

© Crown copyright 2020

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£6.90

UK202012091044 12/2020 19585

<http://www.legislation.gov.uk/id/uksi/2020/1495>

ISBN 978-0-34-821700-1



9 780348 217001