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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend various statutory instruments relating to value added tax (“VAT”) for the purpose of making changes that are appropriate in consequence of, or otherwise in connection with, the withdrawal of the UK from the EU. They also make associated savings and transitional provisions.

Under regulation 1 the Regulations come into force on such day as the Treasury may appoint. Part 2 amends secondary legislation relating to VAT. Amendments are made which are required as a result of the Protocol on Ireland/Northern Ireland agreed between the EU and the UK as part of the Withdrawal Agreement (“the Protocol”). The amendments re-enact certain provisions of VAT law in connection with the movement of goods between the EU and Northern Ireland which were omitted by earlier EU exit legislation, principally the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019 (S.I. 2019/59). They also make provision in relation to the VAT treatment of goods imported into Northern Ireland from outside the EU or removed to Northern Ireland from the rest of the United Kingdom, and vice versa. Part 2 also makes amendments unconnected with the Protocol regarding the treatment of tax incurred in respect of certain financial services.

Regulation 2 amends the Value Added Tax (Imported Goods) Relief Order 1984 (S.I. 1984/746). The 1984 Order makes provision for the charge to import VAT to be relieved in specified circumstances. The amendments ensure that these reliefs will continue to apply to goods imported into the UK by virtue of their entry into Northern Ireland and will also apply to the charge to VAT that arises when goods are removed from Northern Ireland to Great Britain after the end of the transition period. Regulation 2 inserts new articles 3A and 3B which modify the application of the Order depending on whether the goods are imported by entry into Northern Ireland or are removed from Northern Ireland to Great Britain. A consequential amendment is made to S.I. 2019/59 (see Part 3 of these Regulations) to provide a definition of “importation”.

Regulations 3 to 8 amend the Value Added Tax (Removal of Goods) Order 1992 (S.I. 1992/3111). As a result of the UK's withdrawal from the EU, the Order no longer applies in relation to the movement of goods between the EU and Great Britain but continues to have relevance to the movement of goods between the EU and Northern Ireland. Regulations 3 to 8 therefore make amendments to the Order so that it continues to have application in relation to Northern Ireland. Regulations 9 to 12 amend the Value Added Tax (Cars) Order 1992 (S.I. 1992/3122) in light of the Protocol by providing that the margin scheme continues to operate for second hand cars where possible and for providing that specified services in relation to the supply of second hand cars are outside the scope of VAT.

Regulations 13 to 15 amend the Value Added Tax (Supply of Temporarily Imported Goods) Order 1992 (S.I. 1992/3130) in light of the Protocol by providing that goods temporarily imported into the UK will be outside the scope of VAT if they meet the conditions of temporary importation by reference to the customs provisions which apply across the UK.

Regulation 16 amends the Value Added Tax (Treatment of Transactions) (No.2) Order 1992 (S.I. 1992/3132). As a result of the UK's withdrawal from the EU, the treatment of transactions order no longer applies in relation to supplies of gold removed from the EU to Great Britain but continues to have relevance for supplies of gold between the EU and Northern Ireland. Regulation 16 therefore amends the Order it so that it continues to have application in relation to Northern Ireland.

Regulation 17 amends the Customs and Excise (Personal Reliefs for Special Visitors) Order 1992 (S.I. 1992/3156) to restore references to acquisitions. It modifies the application of a provision of the Order to movements into Northern Ireland from Great Britain and the Isle of Man.

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Regulation 18 amends the Customs and Excise Duties (Personal Reliefs for Goods Permanently Imported) Order 1992 (S.I. 1992/3193) to ensure the reliefs operate as required across the UK. It modifies the application of the Order to movements into Northern Ireland by inserting a new article 4A.

Regulations 19-24 amend the Value Added Tax (Input Tax) Order 1992 (S.I. 1992/3222) which sets out the circumstances in which certain descriptions of input tax are excluded from credit under section 25 of the Value Added Tax Act 1994 (c. 23; “VATA”). Under the Protocol, acquisitions continue to have relevance in relation to Northern Ireland. Regulations 19-24 therefore amend definitions in the Order and insert a new Schedule 2 to apply the relevant provisions to acquisition tax incurred in Northern Ireland. Regulation 22 also defines “importation” for the purposes of the Order in consequence of provision made by the Taxation (Post-transition Period) Act 2020 (c. 26).

Regulation 25 amends the Value Added Tax (Payments on Account) Order 1993 (S.I. 1993/2001) to update the method for calculating payments to be made on account of VAT in consequence of other EU exit legislation which permits or, in some cases, mandates VAT return accounting for import VAT.

Regulations 26-29 amend the Value Added Tax (Treatment of Transactions) Order 1995 (S.I. 1995/958). Article 3 of the Order provides that a transfer of ownership of certain goods when they are subject to a specified customs relief is not a supply of goods or services. The amendments change the definition of the applicable relief from customs duty referred to in the Order so that the relevant provisions apply in Northern Ireland and the rest of the UK, as required. The provisions applicable in Northern Ireland are those that apply by virtue of EU customs legislation and the provisions applicable in the rest of the UK are those applicable under the Taxation (Cross-border Trade) Act 2018 (c. 22).

Regulation 30 amends the Value Added Tax (Special Provisions) Order 1995 (S.I. 1995/1268) to restore references to acquisition tax in relation to Northern Ireland and to refer to the relevant customs provisions which operate across the UK in light of the Protocol.

Regulations 31-86 amend the Value Added Tax Regulations 1995 (S.I. 1995/2518). Regulation 32 amends the interpretation provision. Regulation 33 amends Part 2 to introduce notification obligations for those required to register for VAT under Schedule 9ZC to VATA. Regulations 34 to 37 amend Part 3 concerning VAT invoices to apply relevant EU rules concerning goods to Northern Ireland traders and regulations 38-44 retain the requirement for returns of information to be provided by Northern Ireland taxable persons trading in goods with the EU. Regulations 45 to 52 amend Part 5 to restore references to acquisition tax and relevant warehousing regimes operating across the UK. Regulation 53 amends Part 7A concerning the flat-rate scheme for small traders to restore references to acquisition tax. Regulation 54 amends Part 12 concerning valuation of acquisitions so that it covers Northern Ireland. Regulation 55 amends Part 13 in relation to the specific case where a person has exercised an option to treat the distance selling of goods from Northern Ireland to a member State of the EU as taxable outside the United Kingdom even though the relevant threshold for registration in that member State has not been reached. The amendments preserve regulation 98 in modified form so that the place of supply rules in that provision apply only in relation to distance selling from Northern Ireland to the EU. Regulations 56-59 amend Part 14 concerning input tax and partial exemption. Regulations 57(b) and 58 insert provisions unconnected with the Protocol but relating to the appropriate treatment for input tax purposes of the export of certain financial services. Otherwise, these regulations make provision for the attribution of input tax where a partially exempt taxable person is deemed to have made a zero-rated supply of own goods as a result of the removal of those goods from Great Britain to Northern Ireland. Regulations 60-74 amend Part 16 to amend modifications of customs legislation and to make provision concerning certain descriptions of export. Regulations 75-79 amend and modify the application of Part 16A to make provision for Great Britain and Northern Ireland fiscal warehouses (and see also regulation 90 which amends Schedule 1A). Regulations 80-85 amend provisions relating to means of transport and new means of transport, the latter concept now confined to Northern Ireland-EU VAT treatment. Regulations 86-88 concern the provision

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of VAT refunds to overseas businesses, where different processes apply to tax on goods incurred by EU businesses in Northern Ireland compared to tax incurred on services or elsewhere in the UK. These regulations also make provision regarding the forwarding of equivalent VAT refund requests from Northern Ireland businesses to tax authorities in the EU. Regulation 89 amends Part 23 to insert the relevant cross-reference for DIY builders' claims.

Regulations 91-92 amend the Value Added Tax (Input Tax) (Specified Supplies) Order 1999 (S.I. 1999/3121). This amendment is unconnected with the Protocol and relates to the recovery of VAT incurred in respect of certain supplies of financial services.

Regulations 93-94 amend the Value Added Tax (Acquisitions) Relief Order 2002 (S.I. 2002/1935). That Order continues to have relevance for acquisitions between the EU and Northern Ireland. Part 3 of these Regulations makes amendments to it so that it continues to have application in relation to Northern Ireland.

Regulations 95-99 amend the Value Added Tax (Place of Supply of Goods) Order 2004 (SI 2004/3148). Part 2 of that Order makes provision establishing the place of supply of goods supplied in the course of passenger transport from one member State of the EU to another. These provisions will no longer be generally applicable in relation to passenger transport between Great Britain and the EU after the end of the implementation period provided for in the withdrawal agreement made between the United Kingdom and the EU concerning the United Kingdom's withdrawal from the Union. However, the provisions set out in the Order, will continue to apply in relation to Northern Ireland as prescribed in the Northern Ireland Protocol to the withdrawal agreement. The Order is also amended in relation to chain transactions to ensure that these provisions operate in relation to Northern Ireland.

Regulations 100-101 amend the Value Added Tax (Removal of Gas, Electricity, Heat and Cooling) Order 2010 (S.I. 2010/2925). As the provision will be needed in respect of removals from and to Northern Ireland from the EU, the Order is amended accordingly.

Regulations 102-103 amend the Value Added Tax (Section 55A)(Specified Goods and Excepted Supplies) Order 2014 (S.I. 2014/1458) which imposes a reverse charge in relation to certain descriptions of supply. Consequential amendments are made to references to a member State as a result of the UK's withdrawal from the EU.

Part 3 contains amendments to earlier EU exit legislation relating to VAT, principally the Value Added Tax (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2019 (S.I. 2019/59) mentioned above: see regulation 104 and the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/513). Some provisions of earlier EU exit legislation are simply omitted whilst other omissions are consequential on amendments made by Part 2 of these Regulations.

Regulation 105 amends the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/60) to reflect the differing customs provisions in place across the UK, to exclude those treated as having imported goods under Schedule 9ZC to VATA from the option of accounting for import VAT on a VAT return and to specify that the option is only available where goods are imported into the UK and not moved within the UK.

Regulations 106 and 107 amend and omit provisions made by the Value Added Tax and Excise Personal Reliefs (Special Visitors and Goods Permanently Imported) (EU Exit) Regulations 2019 (S.I. 2019/91) and the Value Added Tax (Miscellaneous Amendments, Revocation and Transitional Provisions) (EU Exit) Regulations 2019 (S.I. 2019/513) respectively in consequence of amendments made by this instrument.

Regulation 108 revokes the Value Added Tax (Input Tax) (Specified Supplies) (EU Exit) Regulations 2019 (S.I. 2019/175) and the Value Added Tax (Input Tax) (Specified Supplies) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/408) as the amendments contained in the former are not required and those contained in the latter instrument are now contained within these Regulations.

Part 4 contains savings and transitional provisions as a consequence of the amendments made in these Regulations, in the Taxation (Cross-border Trade) Act 2018 (c.22) and the Taxation (Post-transition Period) Act 2020 so as to prevent cases of double-taxation or non-taxation.

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Any public notice referred to in these Regulations will be made available at <https://www.gov.uk/government/collections/customs-vat-and-excise-uk-transition-legislation-from-1-january-2021> (or in a notice on the [www.gov.uk](https://www.gov.uk) website, as described in that link).

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 withdrawal agreement, which includes the Protocol on Ireland/Northern Ireland, is available at <https://www.legislation.gov.uk/eut/withdrawal-agreement/contents/adopted>.

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>.

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