
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain provisions of primary and secondary legislation concerning the VAT treatment of distance selling transactions in Northern Ireland and makes other miscellaneous amendments to provisions relating to VAT.

The distance selling provisions amended by these Regulations were enacted in the Finance Act 2021 (“FA 2021”), which introduced two new VAT schemes applicable in relation to Northern Ireland by virtue of the United Kingdom’s participation in the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement (“the Protocol”). These new schemes are designed to simplify VAT accounting for the sale of goods direct to consumers by suppliers based in the EU and by suppliers who import goods into the EU for sale. The first of these schemes is the intra-Community distance selling one stop shop scheme, known as the OSS, which was enacted by FA 2021 in a new Schedule 9ZD to the Value Added Tax Act 1994 (“VATA”). The second is the distance selling of imported goods scheme, known as the import one stop shop, or IOSS, which was similarly inserted in a new Schedule 9ZE to VATA. Both of these schemes only apply in the United Kingdom in relation to goods in Northern Ireland. FA 2021 also made consequential changes to other provision in VATA concerning VAT in Northern Ireland, namely in Schedules 9ZA, 9ZB and 9ZC.

Regulations 2 to 7 amend to Schedule 9ZD to VATA. Regulations 3 and 4 amend paragraph 2 and 4(3) of that Schedule respectively to correct minor errors. Regulation 5 amends paragraph 10 of that Schedule to insert provision as to how the charge to United Kingdom VAT arises and is calculated in relation to supplies made under the OSS scheme. Regulations 6 and 7 make provision concerning records under the OSS scheme.

Regulations 8 to 18 amend Schedule 9ZE to VATA. Regulation 9 omits a provision that now forms the basis of a new paragraph 36A of that Schedule (as inserted by regulation 13). Regulations 10 and 11 make provision about records under the IOSS scheme. Regulation 12 amends paragraph 34(3) of that Schedule to correct minor errors. Regulation 13 inserts a new paragraph 36A into that Schedule, which provides for traders who fall below the VAT registration threshold in the United Kingdom and the Isle of Man (and who are not voluntarily registered for VAT) to benefit from an exemption from charging VAT on their IOSS supplies. Regulation 14 amends paragraph 37 of that Schedule so that the exemption from import VAT for qualifying goods supplied under IOSS applies to Isle of Man suppliers as it does to suppliers in Great Britain. It also makes amendments to ensure that the exemption applies to any qualifying participant of an IOSS scheme, not just those that are registered for the IOSS scheme in the United Kingdom. Finally, the amendments also introduce a power for the Commissioners to make provision by public notice as to what procedure or conditions must be met to establish a person’s entitlement to this import VAT exemption. Regulations 15 to 17 amend paragraph 38, 39 and 41 of that Schedule respectively to ensure that the exemption applies to any qualifying participant of an IOSS scheme, not just those that are registered for the IOSS scheme in the United Kingdom. Regulation 16 also removes provision relating to the time of supply of certain transactions which duplicates provision in Schedule 9ZC. That regulation and regulation 18 also correct minor errors.

Regulations 19 to 22 amend Schedule 9ZF to VATA. Regulation 20 modifies section 3 of VATA to ensure that being registered for OSS and IOSS is not to be regarded as being registered for VAT under VATA. Regulation 21 removes the modification of section 4 of VATA, which is no longer required as a result of the modification made by regulation 20. Regulation 22 amends a modification to Schedule 1 to VATA, which was inserted by FA 2021 to ensure that the inserted provision applies

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in relation to any qualifying participant of an IOSS scheme, not just those that are registered for the IOSS scheme in the United Kingdom.

Regulations 23 to 26 make miscellaneous amendments to the Value Added Tax Regulations 1995 (S.I. 1995/2518). Regulation 24 revokes a provision that is no longer required as a result of legislation made in consequence of the withdrawal of the United Kingdom from the EU. Regulations 25 and 26 rectify minor errors.

Regulations 27 to 31 make amendments to the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546). Regulations 28 and 29 make additional provision in relation to persons who are liable for the VAT charge on the removal of goods from Great Britain to Northern Ireland, and vice versa, in circumstances where goods are declared to a special customs procedure. Regulation 30 amends regulation 19 of those Regulations to clarify that the credit for VAT for goods removed to Northern Ireland also applies equally in relation to goods purchased or imported into the Isle of Man. Regulation 31 amends regulation 22 of the Regulations to include a supply made under the OSS scheme for the purposes of determining whether a person can be identified for the purposes of VAT in Northern Ireland.

Regulations 32 to 35 make miscellaneous amendments to secondary legislation. Regulations 32 to 34 rectify minor errors. Regulation 35 omits transitory provisions that are no longer required.

Regulation 36 makes a saving provision in respect of the transitory provisions omitted by regulation 35.

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>.