

EXPLANATORY MEMORANDUM TO

THE VALUE ADDED TAX (MARGIN SCHEMES AND REMOVAL OR EXPORT OF GOODS: VAT-RELATED PAYMENTS) (LATE PAYMENT INTEREST AND REPAYMENT INTEREST) (AMENDMENT) ORDER 2023

2023 No. 412

1. Introduction

1.1 This explanatory memorandum has been prepared by His Majesty's Revenue and Customs (HMRC) on behalf of His Majesty's Treasury and is laid before the House of Commons by Command of His Majesty.

2. Purpose of the instrument

2.1 With effect from 1 May 2023, The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023 (S.I. 2023/68) ('scheme Order'), which introduces a payment scheme for certain second-hand motor vehicles, comes into force.

2.2 This instrument amends the scheme Order so that the provisions relating to late payment interest ('LPI') and repayment interest ('RPI') apply appropriately to businesses without a business establishment in the United Kingdom ('non-established businesses') who make periodic claims for VAT-related payments ('scheme payments').

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument is being made, in connection with the scheme Order to ensure the interest provisions apply appropriately to non-established businesses who have applied for scheme payments.

6.2 Article 2 inserts new Articles 16A to 16D to the scheme Order to provide for the start date from which RPI is due from HMRC where it is due for a claim under article 8 of the scheme Order. The date RPI becomes due is the last day of a period of 4 months beginning on the day on which HMRC receives the claim for a scheme payment. This

article also provides for the recovery of over-paid RPI as though it were LPI. It also ensures that, if RPI and LPI are due at the same time, the amount to which interest applies is netted off.

7. Policy background

What is being done and why?

- 7.1 Under the Northern Ireland Protocol, the VAT second-hand margin schemes are not available for sales of goods in Northern Ireland if they were purchased in Great Britain or the Isle of Man. This means that businesses that trade in motor vehicles in Northern Ireland must account for VAT on the full value (normally the selling price) of sales of these vehicles rather than on the profit margin.
- 7.2 The scheme Order introduces a payment scheme that will put affected businesses in a comparable financial position to that of selling second-hand motor vehicles under the VAT margin scheme.
- 7.3 VAT registered businesses with a fixed establishment in the UK will treat their claim for payment as though it were VAT and the normal rules that apply to VAT, including interest, will apply to their payment.
- 7.4 The payment scheme is also available to European Union ('EU') VAT registered businesses which purchase eligible used motor vehicles in Great Britain and export them to the EU for resale. These businesses must lodge their claim for payment with HMRC outwith the VAT system and this instrument applies the general rules on interest to these claims.
- 7.5 Due to the nature and risk associated with the claims made by businesses without a business establishment in the UK, the timetable for paying RPI is aligned with that already in place of Overseas Repayment claims. This allows HMRC a window of around 4 months to examine the claim before RPI becomes payable.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 There are no plans to consolidate this instrument as it makes only modest changes to several other instruments.

10. Consultation outcome

- 10.1 The interest changes have been subject to extensive consultation with a wide range of stakeholders as part of consultation on making tax digital. The most recent consultation, taking into account two earlier consultation papers, is available on www.gov.uk/government/consultations/making-tax-digital-interest-harmonisation-and-sanctions-for-late-payment.
- 10.2 There was broad support for harmonisation of interest across all taxes.
- 10.3 This instrument addresses the consequential changes required to ensure that the interest provisions apply as appropriate to the payment scheme when it comes into effect on 1 May and so has not been separately consulted on.

11. Guidance

- 11.1 Guidance on the Second-hand Motor Vehicle Payment Scheme can be found at <https://www.gov.uk/guidance/claim-a-vat-related-payment-if-you-buy-second-hand-motor-vehicles-in-great-britain-and-export-them-to-the-eu-for-resale> .
- 11.2 Guidance on interest harmonisation is available at <https://www.gov.uk/government/collections/vat-penalties-and-interest> .

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A Tax Information and Impact Note covering this policy was published on 3 March 2021 alongside Budget 2021 and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this policy, including these consequential changes.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that the rules are expected to have a low impact on businesses as there are no additional obligations imposed by these changes.

14. Monitoring & review

- 14.1 The provisions that apply interest to the payment scheme under this instrument will be kept under review alongside the wider payment scheme.
- 14.2 The instrument does not include a statutory review clause because it relates to tax and therefore meets the requirements of the exemption set out in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

- 15.1 Peter Bennet at HMRC Telephone: 03000 585559 or email:peter.bennet@hmrc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Eileen Patching, Deputy Director for VAT Principles and Risk, Indirect Tax Directorate, at HMRC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Victoria Atkins MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.