

EXPLANATORY MEMORANDUM TO
THE INDIRECT TAXES (NOTIFIABLE ARRANGEMENTS) (AMENDMENT)
REGULATIONS 2023

2023 No. 473

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 This instrument amends the Indirect Taxes (Notifiable Arrangements) Regulations 2017 (SI 2017/1216) to ensure that the description of certain Value Added Tax (VAT) avoidance arrangements concerning offshore supplies, include transactions between members of the same VAT group. A VAT group is a group of separate business entities which are treated for VAT purposes as a single business carried on by a representative member. Arrangements that fall within the revised description will be “notifiable arrangements” for the purposes of Schedule 17 to the Finance (No.2) Act 2017 as a result of these amendments and therefore subject to the disclosure requirements of that Act.

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 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 Schedule 17 to the Finance (No. 2) Act 2017 introduced the Disclosure of Tax Avoidance Schemes for VAT and other indirect Taxes (DASVOIT) regime, which established requirements for certain persons involved in indirect tax avoidance arrangements or proposed arrangements to notify HMRC and to provide specified information. It made provision for the Treasury to make regulations describing the tax avoidance arrangements covered by the notification regime.
- 6.2 The Treasury set out the description of these arrangements in the Indirect Taxes (Notifiable Arrangements) Regulations 2017 (SI 2017/1216) and these included

provisions made in regulations 5 and 6 concerning offshore supplies. This instrument amends those provisions to ensure that the transactions described in them include those made between members of the same VAT group. The instrument also includes transitional provision for the application of the amendments in relation to certain transactions.

7. Policy background

What is being done and why?

- 7.1 DASVOIT was introduced on 1 January 2018. The aim of the disclosure regime is to provide early information to HMRC about new and innovative indirect tax avoidance arrangements, how they are intended to work and those who use them.
- 7.2 It is closely aligned to the Disclosure of Tax Avoidance Schemes (DOTAS) regime which applies to direct tax. It shares the same generic hallmarks which determine whether schemes should be disclosed to HMRC and includes VAT specific hallmarks. Under the DASVOIT regime disclosures are required within 31 days of a scheme first being promoted.
- 7.3 Regulations 5 and 6 of the Indirect Taxes (Notifiable Arrangements) Regulations 2017 makes provision which relates to certain VAT arrangements where one or more offshore entities are added into a supply chain of services that starts and ends in the United Kingdom.
- 7.4 This instrument therefore adequately reflects the policy intention that they should capture transactions between members of a VAT group registration (which are normally disregarded for VAT purposes) in the same way as transactions between businesses which are not members of the same VAT group.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

- 9.1 No consolidation is planned in relation to these regulations.

10. Consultation outcome

- 10.1 This instrument was published in draft for consultation on 5 December 2022. The consultation closed on 15 January 2023. HMRC had one response, but no changes were required.

11. Guidance

- 11.1 Guidance on the rules for disclosing arrangements relating to VAT and other indirect tax avoidance schemes can be found at: [Disclosing VAT and other indirect tax avoidance schemes \(VAT Notice 799\) - GOV.UK \(www.gov.uk\)](#) and will be updated, as soon as is practicable, after the instrument comes into force.

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 has not been prepared for this instrument as it contains no substantive changes to tax policy.

13. Regulating small business

13.1 The regulation 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 impact on them is an inevitable consequence of their doing business in this area, which is justified by the wider public interest in ensuring that a proper disclosure is made.

14. Monitoring & review

14.1 HMRC will monitor the impact introduced by this instrument on a continuing basis using information collected from its internal systems and processes, as well as regular engagement with affected stakeholder groups.

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 Leroy Wilson at HMRC Telephone Number 03000 513499, email: leroy.wilson@hmrc.gov.uk or Rory Slee at HMRC Telephone Number 03000 565904 email: rory.slee@hmrc.gov.uk, can be contacted with any queries regarding this instrument.

15.2 Angela Walker, Deputy Director for Counter Avoidance Policy, at HMRC Telephone Number: 03000 586965 or email: angela.walker1@hmrc.gov.uk 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.