

**EXPLANATORY MEMORANDUM TO**  
**THE VALUE ADDED TAX (DISTANCE SELLING) (AMENDMENTS)**  
**REGULATIONS 2024**

**2024 No. 128**

**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. Declaration**

- 2.1 Nigel Huddleston MP, Financial Secretary to the Treasury, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Ian Broadhurst, Deputy Director for VAT Reliefs, Financial Services, and International VAT at HMRC, confirms that this Explanatory Memorandum meets the required standard.

**3. Contact**

- 3.1 Kshama Purohit at HMRC email: kshama.purohit@hmrc.gov.uk can be contacted with any queries regarding the instrument.

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

- 4.1 The instrument amends the provisions of the VAT Import One Stop Shop (IOSS) and the VAT One Stop Shop (OSS) simplified accounting schemes. These schemes are entirely optional: businesses which do not choose to use them can continue to account for VAT through normal VAT returns.
- 4.2 The purpose is to implement the changes to the IOSS scheme agreed between the United Kingdom and the European Union under the Windsor Framework which safeguard the operation of the UK's VAT and excise area. These changes ensure that businesses which choose to use this scheme will continue to account for VAT on sales within the UK – including sales between Great Britain and Northern Ireland – through normal UK VAT returns, preserving the previous arrangements and the UK VAT area.
- 4.3 This instrument will also bring into line the regime for penalties and interest for those who do use the IOSS and OSS schemes with the wider regime introduced for VAT on 1 January 2023, ensuring consistent treatment for all types of UK VAT accounting.

*Where does the legislation extend to, and apply?*

- 4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.
- 4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom.

## 5. Policy Context

### *What is being done and why?*

- 5.1 The VAT e-commerce package was introduced by the Finance Act 2021 in respect of goods in Northern Ireland. It includes two new simplified VAT accounting schemes: (1) the OSS scheme, which facilitates the collection of VAT on business to consumer sales of goods between Northern Ireland and the European Union; and (2) the IOSS scheme, which facilitates the collection of VAT on imports of non-excise goods in consignments not exceeding £135 in value into Northern Ireland and the European Union from countries outside the European Union and Northern Ireland. Both systems are entirely optional to use and are designed to reduce administrative burdens on businesses. Businesses can choose to account for VAT either through these schemes or through a normal VAT return.
- 5.2 This instrument will amend the scope of the IOSS scheme to remove the VAT reporting and accounting requirements for goods moved within the United Kingdom. Businesses which choose to use the IOSS scheme will continue to account for VAT on these sales through normal UK VAT returns as they would for any other internal UK sale. All VAT due on these supplies will be accounted for through the UK VAT return.
- 5.3 From 1 January 2023, the UK's penalty and interest regime for VAT was replaced by a new penalty and harmonised interest regime. This instrument ensures that the new VAT penalty and interest regime will also apply to businesses registered for the IOSS and OSS schemes in respect of any supplies treated as made in the UK to ensure consistent treatment for all types of UK VAT accounting. However, this instrument will only apply the late payment penalty at section 117 of and Schedule 26 to the Finance Act 2021 to the IOSS and OSS schemes to ensure that penalties are not issued in cases where businesses have no UK VAT to report and have legitimately chosen not to make declarations. The IOSS and OSS schemes have in-built compliance controls for persistent failure to comply with the rules of the schemes. If there are three successive defaults of late payment or submission of returns, the business concerned is excluded from the relevant scheme for a period of two years. These changes are necessary to ensure the VAT penalty and interest regime operates as intended and will only impact businesses registered for the IOSS or OSS schemes that fail to comply with their obligations.

### *What was the previous policy, how is this different?*

#### The IOSS scheme

- 5.4 Currently, businesses can choose to account for VAT on relevant sales either through IOSS or through a normal VAT return. These Regulations ensure that businesses which choose to use this scheme will continue to account for VAT on sales within the UK – including sales between Great Britain and Northern Ireland – through normal UK VAT returns, preserving the previous arrangements and the UK VAT area.

#### Penalty and interest

- 5.5 On 1 January 2023, the UK introduced a new penalty and interest regime which also applied to VAT. The changes did not extend to the IOSS and OSS schemes. This legislation ensures the new penalty and interest regime applies to these schemes.

## **6. Legislative and Legal Context**

### *How has the law changed?*

- 6.1 This instrument is made using the powers in section 40A(7) of the Value Added Tax Act 1994 (VATA) to amend Schedule 9ZD (Distance Selling of goods into Northern Ireland: Special accounting scheme), Schedule 9ZE (Distance Selling of goods imported into Northern Ireland: Special accounting scheme) and Parts 1 and 2 of Schedule 9ZF (modifications etc in connection with Schedules 9ZD and 9ZE) to VATA.
- 6.2 This instrument modifies paragraph 1(a) and paragraph 37 of Schedule 9ZE and inserts a new sub-paragraph 3 to paragraph 2 of Schedule 9ZE which amends the definition of “qualifying goods”. This means that where a business has opted to register for the IOSS scheme, the VAT accounting for supplies from Great Britain to Northern Ireland will be done through the UK VAT return rather than the IOSS scheme return.
- 6.3 This instrument also modifies the existing penalty and interest provisions in Schedules 9ZD, 9ZE and 9ZF to apply the new penalty and harmonised interest regime (introduced for VAT on 1 January 2023) to the IOSS and OSS schemes but it will only apply the new provisions on penalties for late payment which are contained in section 117 of and Schedule 26 to the Finance Act 2021.

### *Why was this approach taken to change the law?*

- 6.4 This is the only possible approach to make the necessary changes.

## **7. Consultation**

### *Summary of consultation outcome and methodology*

- 7.1 No consultation has been carried out. The changes are consequential to ensure the IOSS and OSS schemes operate as intended.

## **8. Applicable Guidance**

- 8.1 Guidance will be available by 1 March 2024 at [www.gov.uk](http://www.gov.uk).

## **Part Two: Impact and the Better Regulation Framework**

## **9. Impact Assessment**

- 9.1 Tax Information and Impact Notes covering the IOSS and OSS scheme policy and the interest and penalty policy are available on the website at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/987169/TIIN - VAT e-commerce.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987169/TIIN_-_VAT_e-commerce.pdf) and <https://www.gov.uk/government/publications/interest-harmonisation-and-penalties-for-late-submission-and-late-payment-of-tax/interest-harmonisation-and-penalties-for-late-payment-and-late-submission>. These continue to be an accurate summary of the impacts that apply to these policies, including the consequential changes.

### *Impact on businesses, charities and voluntary bodies*

- 9.2 The impact on businesses, charities or voluntary bodies is expected to be beneficial. The change should have a positive impact on trade within the UK as it will ensure consistent VAT treatment for all sales within the UK.

- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector because this instrument does not impose any additional regulatory obligations on them.

## **10. Monitoring and review**

### *What is the approach to monitoring and reviewing this legislation?*

- 10.1 The approach to monitoring this legislation is through communications with key stakeholder groups, including the Joint VAT Consultative Committee (JVCC).
- 10.2 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.

## **Part Three: Statements and Matters of Particular Interest to Parliament**

### **11. Matters of special interest to Parliament**

- 11.1 None.

### **12. European Convention on Human Rights**

- 12.1 Nigel Huddleston MP, Financial Secretary to the Treasury, has made the following statement regarding Human Rights:

“In my view the provisions of the Value Added Tax (Distance Selling) (Amendments) Regulations 2024 are compatible with the Convention rights.”

### **13. The Relevant European Union Acts**

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”). It does, however, relate to the withdrawal of the United Kingdom from the European Union because it will implement the changes to the scope of the IOSS scheme agreed under the Windsor Framework. It will also ensure that the United Kingdom’s VAT ecommerce regime operates as intended and that burdens for businesses are minimised.