

**2020 No. 1412**

**EXITING THE EUROPEAN UNION**

**EXCISE**

**VALUE ADDED TAX**

**The Travellers' Allowances and Miscellaneous Provisions (EU Exit) Regulations 2020**

*Made - - - - at 9.15 a.m. on 3rd December 2020*

*Laid before the House of Commons at 2.30 p.m. on 3rd December 2020*

*Coming into force in accordance with regulation 1*

The Treasury make these Regulations in exercise of the powers conferred by section 51(1)(a) and (c) of the Taxation (Cross-border Trade) Act 2018<sup>(a)</sup>.

In accordance with section 51(1)(a) and (c) of the Taxation (Cross-border Trade) Act 2018, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU to make the provisions in these Regulations in relation to value added tax and excise duty.

**PART 1**

**Introductory**

**Citation and commencement**

**1.** These Regulations may be cited as the Travellers' Allowances and Miscellaneous Provisions (EU Exit) Regulations 2020 and come into force on IP completion day.

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<sup>(a)</sup> 2018 c. 22; section 51(1)(a) and (c) permits "the appropriate Minister" to make provision relating to value added tax and any excise duty. Under section 51(4)(b) "the appropriate Minister" means the Treasury. "Excise duty" has the meaning given in section 53 of the Taxation (Cross-border Trade) Act 2018.

## PART 2

### Travellers' allowances and simplified computation

#### **Amendment of the Travellers' Allowances Order 1994**

2. The Travellers' Allowances Order 1994(a) is amended as follows.

3. After article 1 insert—

#### **“Interpretation**

**1A.**—(1) In this Order “excise goods” means any goods chargeable with excise duty by virtue of any provision of—

- (a) the Alcoholic Liquor Duties Act 1979(b); or
- (b) the Tobacco Products Duty Act 1979(c).

(2) For the purposes of this Order, goods shall be treated as contained in a person's personal luggage where they are carried with or accompanied by that person or, if intended to accompany that person, were at the time of that person's departure for the UK consigned by that person as personal luggage to the transport operator with whom that person travelled.

#### **Travellers' reliefs – Great Britain”.**

4. In article 2—

- (a) in paragraph (1)—
  - (i) omit “who has travelled from a third country”;
  - (ii) after “the United Kingdom” insert “at a place in Great Britain”;
  - (iii) for “the Schedule” substitute “Schedule 1”;
- (b) omit paragraphs (2) and (3).

5. In article 3 omit the words from “That condition” to the end.

6. After article 5 insert—

#### **“Simplified calculation of excise duty**

**6.**—(1) This article has effect for the purposes of calculating the excise duty payable by a person entering the United Kingdom at a place in Great Britain on excise goods contained in the person's personal luggage.

(2) The person may elect for paragraph (3) to apply provided that the upper threshold given in column B of the Table in Schedule 2 and applicable to any of the goods is not exceeded.

(3) Where this paragraph applies, the sum calculated by applying the rate specified in column A of that Table in respect of a description of goods is treated as the amount of excise duty payable on any goods of that description.”.

7.—(1) The Schedule is amended as follows.

(2) Renumber the Schedule as Schedule 1.

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(a) S.I. 1994/955; amended by S.I. 2008/3058, 2009/3172 and 2011/1043 and modified by S.I. 2010/594, as amended by S.I. 2019/474.

(b) 1979 c. 4.

(c) 1979 c. 7.

- (3) In the Table in the second column headed “Quantity”—
- (a) in the entry for goods other than fuel and those described below—
    - (i) for “travelled by air or sea” substitute “travelled by air, sea or rail”;
    - (ii) for “did not travel by air or sea” substitute “travelled by way of private pleasure-flying or private pleasure-sea-navigation”;
  - (b) in Note (b) omit “does not constitute travel by air or sea for these purposes. This”;
  - (c) omit Notes (e), (h), (i), (j) and (n);
  - (d) in the entry for “alcoholic beverages and alcohol, other than beer and still wine” for “1 litre” substitute “4 litres” and for “2 litres” substitute “9 litres”;
  - (e) in the entry for “beer” for “16 litres” substitute “42 litres”;
  - (f) in the entry for “still wine” for “4 litres” substitute “18 litres”;
  - (g) in the entry for “tobacco products” after “smoking tobacco” insert “, or 200 sticks of tobacco for heating”.
8. After the Schedule insert—

**“SCHEDULE 2**  
**SIMPLIFIED CALCULATION OF EXCISE DUTY (GREAT**  
**BRITAIN)**

**Article 6**

<i>Description</i>	<i>A: Rate of Excise Duty</i>	<i>B: Upper threshold</i>
<i>Alcoholic beverages and alcohol—</i>		
Beer	£0.80 per litre	110 litres
Still wine	£2.97 per litre	90 litres
Sparkling wine	£3.81 per litre	60 litres
Cider	£0.40 per litre	20 litres
Sparkling cider of an alcoholic strength not exceeding 5.5% by volume	£0.40 per litre	20 litres
Sparkling cider of an alcoholic strength exceeding 5.5% but less than 8.5% by volume	£2.88 per litre	20 litres
Made-wine	£2.97 per litre	20 litres
Spirits	£10.77 per litre	10 litres
<i>Tobacco products—</i>		
Cigarettes	£320.90 per 1000 cigarettes	800 cigarettes
Hand rolling tobacco	£271.40 per kilogram	1 kilogram
Other smoking tobacco and chewing tobacco	£134.24 per kilogram	1 kilogram
Cigars	£305.32 per kilogram	200 cigars
Cigarillos (a cigarillo is a cigar weighing no more than 3 grams each)	£305.32 per kilogram	400 cigarillos
Tobacco for heating	£75.48 per 1000 sticks	800 sticks”.

## PART 3

### Consequential provisions and miscellaneous amendments

#### CHAPTER 1

##### Consequential provisions

###### **References to section 13 of the Customs and Excise (General Reliefs) Act 1979**

**9.** Any reference in any provision made by or under any enactment to orders made under section 13(1) of the Customs and Excise Duties (General Reliefs) Act 1979(a) is to be read as including a reference to any regulations made under section 51 of the Taxation (Cross-border Trade) Act 2018 that grant relief from VAT or excise duty to persons entering the United Kingdom.

###### **References to a person entering the United Kingdom**

**10.—(1)** Where provision is made by or under any enactment to the effect that, on entering the United Kingdom, a person—

- (a) is not required to pay any value added tax chargeable in respect of specified goods imported into the United Kingdom, or
- (b) is otherwise relieved of the payment of value added tax on specified goods,

the reference to the United Kingdom is to be interpreted as including a control zone.

(2) In this regulation ‘control zone’ has the same meaning as in article 2(4) of the Channel Tunnel (Customs and Excise) Order 1990(b).

#### CHAPTER 2

##### Miscellaneous amendments

###### **Amendment of the Value Added Tax Regulations 1995**

**11.—(1)** Part 16 (importations, exportations and removals) of the Value Added Tax Regulations 1995(c) is amended as follows.

(2) In regulation 117 omit paragraphs (4) and (7A) to (7D).

(3) In regulation 129(1)—

- (a) omit the “and” at the end of sub-paragraph (a)(iii);
- (b) at the end of sub-paragraph (b) insert “and”;
- (c) after sub-paragraph (b) insert—

“(c) the goods are not personal gifts on export as defined in regulation 2 of the Customs (Export) (EU Exit) Regulations 2019(d),”.

(4) Omit the heading immediately before regulation 131.

(5) Omit regulation 131.

###### **Amendment of the Tobacco Products Regulations 2001**

**12.—(1)** The Tobacco Products Regulations 2001(a) are amended as follows.

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- (a) Section 13(1) was amended by the Taxation (Cross-border Trade) Act 2018 (c. 22), section 29 and paragraphs 118 and 131(1) and (2)(a) to (c) of Schedule 7.
  - (b) S.I. 1990/2167; amended by S.I. 1993/1813, 1994/1405 and 2011/1043. Further amendments are made by S.I. 2018/1247 but these have not been brought into force.
  - (c) S.I. 1995/2518; amended by S.I. 1995/3147, 1996/210, 1999/438, 2003/1485, 2006/3292, 2013/2241 and 2019/513. The amendments made by S.I. 2019/513 are not yet in force. There are other amending instruments, but none is relevant.
  - (d) S.I. 2019/108; the definition of personal gifts on export is inserted by S.I. 2019/1346. There are other amending instruments, but none is relevant.

- (2) In regulation 23 (exceptions to the requirement to carry a fiscal mark)—
  - (a) omit paragraph (1)(aa);
  - (b) in paragraph (1A)(b) after “1979” insert “or under section 3 of the Taxation (Cross-border Trade) Act 2018”.
- (3) After regulation 25(2) (offences-supplementary provisions) insert—
  - “(2A) A person afforded relief from duty under section 3 of the Taxation (Cross-border Trade) Act 2018 is not guilty of an offence contrary to section 8G(4) of the Act unless his conduct occasioned the excise duty point prescribed by regulation 12(4) above.”

### **Amendment of the Duty Stamps Regulations 2006**

- 13.—**(1) The Duty Stamps Regulations 2006(b) are amended as follows.
  - (2) In regulation 32 (diplomats and other persons enjoying immunities and privileges, and travellers from outside the United Kingdom)—
    - (a) omit paragraph (1);
    - (b) in paragraph (3) for “an external territory or third country” substitute “a place outside the United Kingdom”;
    - (c) in paragraph (5)(b) after “1979,” insert “or by or under section 3 of the Taxation (Cross-border Trade) Act 2018”.
  - (3) In regulation 35(2) (offence of possession, sale etc. of unstamped containers)—
    - (a) omit sub-paragraph (c);
    - (b) in sub-paragraph (e) for “an external territory or a third country” substitute “a place outside the United Kingdom”.

## CHAPTER 3

### Sales on board ships, aircraft and trains

### **Revocation of the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999**

- 14.** The Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999(c) are revoked.

### **Consequential amendments and revocation**

- 15.** Omit regulation 7(2)(d) (interpretation of other regulations relating to excise goods) of the Excise Duty Points (Etc.) (New Member States) Regulations 2004(d).
- 16.** Omit regulation 16(2) (other regulations) of the Hydrocarbon Oil (Registered Remote Markers) Regulations 2005(e).
- 17.—**(1) The Duty Stamps Regulations 2006 are amended as follows.
  - (2) In regulation 2(1) (interpretation) omit the definitions of “merchandise” and “registered mobile operator”.
  - (3) In regulation 3(6) (when a retail container must be stamped or must not be stamped) omit “to a retail container of alcoholic liquor that is merchandise or”.
  - (4) Omit regulation 29 (registered mobile operators).

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- (a) S.I. 2001/1712; regulation 23 is amended by S.I. 2002/2692 and 2006/1787. There is another amending instrument, but it is not relevant.
- (b) S.I. 2006/202; to which there are amendments not relevant to these Regulations.
- (c) S.I. 1999/1565; amended by S.I. 2005/3472, 2010/592, 2011/1043 and 2015/368, and modified by S.I. 2004/1003.
- (d) S.I. 2004/1003; to which there are amendments not relevant to these Regulations.
- (e) S.I. 2005/3472; to which there are amendments not relevant to these Regulations.

(5) In regulation 34 (drawback of excise duty) omit “unless the eligible claimant is a registered mobile operator”.

(6) In regulation 35(2) (offence of possession, sale etc of unstamped containers) omit subparagraph (a).

**18.** The Excise Goods (Sales on Board Ships and Aircraft) (Amendment) Regulations 2010(a) are revoked.

**19.** Omit regulations 17 to 20 (amendments to the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999) of the Excise Goods (Aircraft and Ship’s Stores) Regulations 2015(b).

## CHAPTER 4

### Export shops and stores

#### **Amendment of the Excise Goods (Export Shops) Regulations 2000**

**20.**—(1) The Excise Goods (Export Shops) Regulations 2000(c) are amended as follows.

(2) In regulation 3 (interpretation)—

(a) for the definition of “entitled passenger” substitute—

““entitled passenger” means a person holding a relevant transport document who is travelling to their destination from or via the port, airport or international railway station or terminal where the export shop(d) is situated.”;

(b) after the definition of “export shop” insert—

““international railway journey” means a journey on board a railway vehicle from Great Britain to any other country or territory;

“international railway station or terminal” means a railway station or rail terminal from which an international railway journey may be made and includes the terminal area at Folkestone serving the tunnel linking England and France;”;

(c) for the definition of “passenger” substitute—

““passenger” means a person holding a transport document for travel by sea, air or rail who intends to travel from the port, airport or international railway station or terminal where the export shop is situated;”;

(d) after the definition of “passenger” insert—

““relevant transport document” means a transport document for a voyage, flight or international railway journey to a destination outside the United Kingdom, other than the Isle of Man, but does not include a transport document for a journey from a port, airport or international railway station or terminal in Northern Ireland to a destination in the European Union to which Council Directive 2008/118 EC(e) applies.”.

(3) In regulation 7(2) (storage of excise goods) for “port or airport”, in both places where these words appear, substitute “port, airport or international railway station or terminal”.

(4) In regulation 8(1) (supplying passengers with excise goods) for “transport document” substitute “relevant transport document”.

(5) In regulation 9(2) (removal) for “port or airport” substitute “port, airport or international railway station or terminal”.

(6) In the Schedule (supply of pre-ordered excise goods)—

(a) in paragraph 1 for the definition of “qualifying ticket” 1 substitute—

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(a) S.I. 2010/592.

(b) S.I. 2015/368.

(c) S.I. 2000/645; amended by S.I. 2010/593 and modified by S.I. 2004/1003.

(d) “Export shop” has the meaning given in regulation 2 of the Excise Goods (Export Shops) Regulations 2000 (S.I. 2000/645), as amended by S.I. 2010/593 and modified by S.I. 2004/1003.

(e) OJ L 9, 14.1.2009, p.12.

““qualifying ticket” means a transport document valid for travel by sea, air or rail from the port, airport or international railway station or terminal where the export shop is situated;”;

- (b) in paragraph 4 for “port or airport” substitute “port, airport or international railway station or terminal”;
- (c) in paragraph 5(b) for “port or airport” substitute “port, airport or international railway station or terminal”.

### **Amendment of the Excise Goods (Aircraft and Ship’s Stores) Regulations 2015**

**21.**—(1) The Excise Goods (Aircraft and Ship’s Stores) Regulations 2015(a) are amended as follows.

- (2) In regulation 2 (interpretation) after the definition of “fuel substitute” insert—

““operator of the railway vehicle” means the person designated as train manager by the person operating the international service on which the railway vehicle is engaged;”.

- (3) For regulation 3 (duty free stores) substitute—

**3.**—(1) Excise goods may be shipped or carried for use on a ship, aircraft or railway vehicle as stores without payment of duty or on drawback in such circumstances as the Commissioners may specify in a published notice.

(2) The power for the Commissioners to specify circumstances in a published notice under paragraph (1) includes power to make different provision in relation to a ship, aircraft or railway vehicle which is on a journey to, from or via Northern Ireland.”.

- (4) In regulation 5 for “master of the ship or operator of the aircraft” substitute “master of the ship, operator of the aircraft or operator of the railway vehicle”.

- (5) In regulation 6(a) for “voyage or flight” substitute “voyage, flight or railway journey”.

- (6) In regulation 8(a) for “voyage or flight” substitute “voyage, flight or railway journey”.

- (7) In regulation 11 (goods consumed in a port or on a flight in the United Kingdom - payment of duty)—

- (a) in paragraph (1)—

- (i) omit the “or” at the end of sub-paragraph (a);

- (ii) at the end of sub-paragraph (b) insert “or”;

- (iii) after sub-paragraph (b) insert—

- ““consumed on board a railway vehicle in the United Kingdom in circumstances specified by the Commissioners in a published notice;”;

- (b) in paragraph (2) for “consumed on a journey or in port” substitute “consumed on a journey, in port or on board a railway vehicle in the United Kingdom.”.

## **PART 4**

### **Transitional and savings provisions**

#### **The Travellers’ Allowances Order 1994**

**22.** The Travellers’ Allowances Order 1994(b) as it had effect immediately before IP completion day continues to have effect in relation to persons who are travelling on a voyage, flight or railway journey to the United Kingdom that is scheduled to depart before IP completion day.

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(a) S.I. 2015/368.

(b) S.I. 1994/955; amended by S.I. 2009/3058, 2009/3172 and 2011/1043 and modified by S.I. 2019/594.

### **The Value Added Tax Regulations 1995**

23. The amendments made by regulation 11(2) and (5) do not have effect in relation to goods that were purchased before IP completion day.

### **The Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999**

24. The Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999(a) continue to have effect in relation to persons and excise goods on board any ship or aircraft that is scheduled to depart before IP completion day.

### **The Tobacco Products Regulations 2001**

25.—(1) The Tobacco Products Regulations 2001(b) as they had effect immediately before IP completion day continue to have effect in relation to specified tobacco products that are in the course of a movement on IP completion day.

(2) In paragraph (1)—

- (a) “specified tobacco products” has the meaning given in regulation 3 of the Tobacco Products Regulations 2001;
- (b) goods are “in the course of a movement on IP completion day” where those goods have been dispatched before IP completion day.

### **The Duty Stamps Regulations 2006**

26.—(1) The Duty Stamps Regulations 2006(c) as they had effect immediately before IP completion day continue to have effect in relation to persons and retail containers of alcoholic liquor where the retail containers are on board a ship or aircraft which was scheduled to depart before IP completion day.

(2) In paragraph (1) “retail containers of alcoholic liquor” is to be construed in accordance with the definitions of “alcoholic liquor” in regulation 2(1) of the Duty Stamps Regulations 2006 and “retail container” in paragraph 1(2) of Schedule 2A to the Alcoholic Liquor Duties Act 1979.

*James Morris  
Maggie Throup*

At 9.15 a.m. on 3rd December 2020 Two of the Lords Commissioners of Her Majesty’s Treasury

### **EXPLANATORY NOTE**

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

These Regulations make changes to existing provisions relating to travellers’ allowances; provide for a simplified computation of excise duty in specified circumstances; make changes to existing secondary legislation relating to excise duty and value added tax; and make consequential, transitional and savings provisions in order to make provision appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom (“UK”) from the European Union (“EU”).

Part 2 of these Regulations amends the Travellers’ Allowances Order 1994 (S.I. 1994/955) to ensure that existing travellers’ allowances for goods continue to operate correctly after the UK withdraws from the EU and to introduce a new simplified computation for travellers to use to calculate their excise duty liability in certain circumstances. These amendments are only effective

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(a) S.I. 1999/1565; amended by S.I. 2010/592.

(b) S.I. 2001/1712; relevant amending instruments are S.I. 2002/2692, 2006/1787 and 2019/13.

(c) S.I. 2006/202; amended by S.I. 2019/15; there are other amending instruments, but none is relevant.



in respect of goods being brought into Great Britain from outside the United Kingdom. A separate statutory instrument will cover journeys to Northern Ireland.

In Part 3 of these Regulations, regulation 9 provides for any reference by or under any enactment to orders made under section 13(1) of the Customs and Excise Duties (General Reliefs) Act 1979 to be read as including a reference to any regulation made under section 51 of the Taxation (Cross-border Trade) Act 2018 that grant relief from VAT or excise duty to persons entering the UK.

Regulation 10 makes it clear that, where a VAT relief applies in circumstances where a person enters the UK, it will also apply where a person enters a control zone.

Part 3 of these Regulations also makes miscellaneous and consequential amendments to the Value Added Tax Regulations 1995 (S.I. 1995/2518) the Excise Goods (Export Shops) Regulations 2000 (S.I. 2000/645), the Tobacco Products Regulations 2001 (S.I. 2001/1712), the Duty Stamps Regulations 2006 (S.I. 2006/202) and the Excise Goods (Aircraft and Ship's Stores) Regulations 2015 (S.I. 2015/368).

Regulation 11 amends Part 16 (importations, exportations and removals) of the Value Added Tax Regulations 1995 to revoke regulation 131 and associated definitions and to add a condition to regulation 129 that the goods in question must not be personal gifts on export.

Regulation 12 amends the Tobacco Products Regulations 2001 to remove an exemption for specified tobacco products acquired in an EU member State by a person for their own use from the requirement to carry a fiscal mark when transported to the UK as these goods will now fall within a different limb of the exemption, which applies to relieved goods.

Regulation 13 amends the Duty Stamps Regulations 2006 to remove specific limbs of the exceptions, namely the exception to the requirement for retail containers of alcoholic liquor to be stamped and the exception for goods transported by EU travellers for their own use to the offence of possessing, transporting or displaying unstamped retail containers of alcoholic liquor. This is because, in both cases, these goods now fall within a different limb of the exceptions by virtue of being relieved by the Travellers' Allowances Order 1994. Various cross-references and geographical descriptors are also amended to ensure that the provisions operate correctly for the end of the transition period following the UK's withdrawal from the EU.

Regulation 14 revokes the Excise Goods (Sales on Board Ships and Aircraft) Regulations 1999 (S.I. 1999/1565) as the registered mobile operator regime is an EU facilitation for intra-EU journeys that ceases to have any relevant application in GB after the end of the transition period following the UK's withdrawal from the EU. It also makes changes to other legislation in consequence of this.

Regulations 15 to 19 make consequential provisions.

Regulation 20 amends the Excise Goods (Export Shops) Regulations 2000. In particular the definition of "entitled passenger" is amended and other miscellaneous amendments are made to ensure that the export shop regime operates correctly after the end of the transition period following the UK's withdrawal from the EU to permit the supply of goods from export shops without payment of excise duty to travellers on flights, voyages and railway journeys to destinations outside the UK (including those travelling to the EU, with the exception of those travelling from Northern Ireland to the EU).

Regulation 21 amends the Excise Goods (Aircraft and Ship's Stores) Regulations 2015 to provide for the introduction of duty free sales of excise goods on railway journeys to destinations outside the UK (including those to destinations in the EU, with the exception of those travelling from Northern Ireland to the EU).

Part 4 of these Regulations makes transitional and savings provisions in relation to some of the substantive amendments made in these Regulations.

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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