

2022 No. 226

VALUE ADDED TAX

**The Value Added Tax (Enforcement Related to Distance Selling
and Miscellaneous Amendments) Regulations 2022**

<i>Made</i> - - - -	<i>4th March 2022</i>
<i>Laid before the House of Commons</i>	<i>7th March 2022</i>
<i>Coming into force</i> - -	<i>1st April 2022</i>

The Treasury, in exercise of the powers conferred by section 40A(7) of the Value Added Tax Act 1994(a) (“VATA”) and section 51(1)(a) and (3) of the Taxation (Cross-border Trade) Act 2018(b) (“TCTA”), make regulations 1 to 27 and 31 to 35.

The Commissioners for Her Majesty’s Revenue and Customs, in exercise of the powers conferred by section 16(3) of, and paragraph 1(6)(b) and (7) of Schedule 9ZB and paragraph 2(10)(b) and (c) of Schedule 11 to, VATA(c), make regulations 1, 2 and 27 to 30.

In accordance with section 51(1)(a) of TCTA, the Treasury consider it appropriate in consequence of, or otherwise in connection with, the withdrawal of the United Kingdom from the EU to make regulations 27 and 31 to 35 in relation to value added tax, including to make such provision as might be made by Act of Parliament.

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Enforcement Related to Distance Selling and Miscellaneous Amendments) Regulations 2022 and come into force on 1st April 2022.

Interpretation

2. In these Regulations, “VATA” means the Value Added Tax Act 1994.

(a) 1994 c. 23 (“VATA”). Section 40A was inserted by Part 1 of Schedule 2 to the Taxation (Post-transition Period) Act 2020 (c. 26). Subsection (7) of section 40A was inserted by the Finance Act 2021 (c. 26).

(b) 2018 c. 22. Section 51(1)(a) permits “the appropriate Minister” to make provision relating to value added tax and under section 51(4)(b) “the appropriate Minister” means the Treasury.

(c) Section 96(1) of VATA defines “the Commissioners” as meaning “the Commissioners of Customs and Excise” and “regulations” as meaning regulations made by the Commissioners under that Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(1) of which provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.

PART 1

Amendments to VATA

Amendments to Schedule 9ZD to VATA

3. Schedule 9ZD to VATA^(a) (distance selling of goods from Northern Ireland: special accounting scheme) is amended in accordance with regulations 4 to 15.

4. In Part 1 (introduction), in paragraph 1 (overview)—

- (a) in paragraph (b), for “schemes in member States that correspond to the OSS scheme” substitute “a non-UK scheme”;
- (b) in paragraph (c), for “non-UK VAT in relation to such corresponding schemes” substitute “UK VAT”.

5. In Part 3 (liability, returns, payment etc), after paragraph 15 insert—

“Persons registered under the OSS scheme who are also registered under this Act

15A.—(1) A person (“P”) who—

- (a) is registered under the OSS scheme, and
- (b) is also registered, or required to be registered, under this Act,

is not required to discharge any obligation placed on them as a taxable person, to the extent that the obligation relates to a scheme supply treated as made in the United Kingdom.

(2) The reference in sub-paragraph (1) to an obligation placed on P as a taxable person is to an obligation—

- (a) to which P is subject under or by virtue of this Act, and
- (b) to which P would not be subject if P was neither registered nor required to be registered under this Act.

(3) This paragraph does not prevent P claiming, in reliance on section 25(2) (deduction of input tax from output tax by a taxable person), a credit for input tax incurred on scheme supplies treated as made in the United Kingdom.”.

6. Part 5 (collection of non-UK VAT) is amended in accordance with regulations 7 to 15.

7. In the heading omit “non-”.

8. In paragraph 22 (assessments: general modifications of section 73 of VATA), in sub-paragraph (1)—

- (a) omit the “and” at the end of paragraph (a);
- (b) after paragraph (b) insert—
 - “, and
- (c) references in that section to a VAT credit included a repayment to persons who are not taxable persons of an amount of VAT paid under and in accordance with this Schedule.”.

9.—(1) Paragraph 25 (deemed amendments of relevant non-UK returns) is amended as follows.

(2) In the heading omit “relevant non-UK”.

(3) In sub-paragraph (1)—

- (a) after “made” insert “an OSS scheme return or”;
- (b) omit “relevant non-UK” in the second place it occurs.

(a) Schedules 9ZD to 9ZF to VATA were inserted by Schedule 18 to the Finance Act 2021.

(4) In sub-paragraph (2)—

- (a) after “made” insert “an OSS scheme return or”;
- (b) for “paragraph 33(2)(b)” substitute “paragraph 33(2)”;
- (c) omit “relevant non-UK” in the second place it occurs.

(5) In sub-paragraph (3)—

- (a) after “made” insert “an OSS scheme return or”;
- (b) omit the second set of words in brackets;
- (c) omit “relevant non-UK” in the final place it occurs.

10.—(1) Paragraph 26 (interest on VAT: “reckonable date”) is amended as follows.

(2) In sub-paragraph (1), in paragraph (a), after “etc)” insert “in relation to an OSS scheme return or”.

(3) In sub-paragraph (3), after “(2)” insert “in relation to an OSS scheme return or”.

(4) In sub-paragraph (4), after “which” insert “the OSS scheme return or”.

11.—(1) Paragraph 27 (default surcharge: notice of special surcharge period) is amended as follows.

(2) In sub-paragraph (1), in the words before paragraph (a), after “make” insert “an OSS scheme return or”.

(3) In sub-paragraph (2)—

- (a) in paragraph (a)—
 - (i) after “is that” insert “the Commissioners or”;
 - (ii) after “member State” insert “(as the case may be)”;
- (b) in paragraph (b)—
 - (i) after “is that” insert “the Commissioners or”;
 - (ii) after “authorities” insert “(as the case may be)”;
- (c) in paragraph (c)—
 - (i) after “return,” insert “the Commissioners or”;
 - (ii) after “authorities” insert “(as the case may be)”;
- (d) in paragraph (d)—
 - (i) after “is that” insert “the Commissioners or”;
 - (ii) after “authorities” insert “(as the case may be)”.

12.—(1) Paragraph 28 (further default after service of notice) is amended as follows.

(2) For sub-paragraph (4) substitute—

“(4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay in respect of scheme supplies treated as made in the United Kingdom to—

- (a) the Commissioners under this Schedule, or
- (b) the tax authorities for the administering member State under a non-UK scheme.”.

(3) In sub-paragraph (5), after “submit” insert “an OSS scheme return or”.

13. In paragraph 29 (default surcharge: exceptions for reasonable excuse etc), in sub-paragraph (1), in paragraph (a)—

- (a) at the beginning insert “the OSS scheme return or”;
- (b) after “received by” insert “the Commissioners or”;
- (c) after “member State” insert “(as the case may be)”.

14.—(1) Paragraph 30 (interest in certain cases of official error) is amended as follows.

- (2) In sub-paragraph (1)—
- (a) omit the “or” at the end of paragraph (a);
 - (b) after paragraph (b) insert—
 - “, or
 - (c) a person has paid, in accordance with this Schedule, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.”.
- (3) For sub-paragraph (3) substitute—
- “(3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is to be read as providing that—
- (a) in a case within sub-paragraph (1)(a) or (b), any reference in that section to a return is to a return required to be made under a non-UK scheme;
 - (b) in a case within sub-paragraph (1)(c), any reference in that section to a return is to a return required to be made under this Schedule.”.

15.—(1) Paragraph 33 (increase or decrease in consideration for a supply) is amended as follows.

(2) In the heading, at the end insert “: cases outside Article 61 of the Implementing Regulation(a)”.

- (3) In sub-paragraph (1)—
- (a) in paragraph (a), after “makes” insert “an OSS scheme return or”;
 - (b) in paragraph (b), for “return has been made” substitute “end of the period during which the person is entitled under Article 61 of the Implementing Regulation to amend their return”.

(4) For sub-paragraph (2) substitute—

“(2) The person must, in the tax period in which the increase or decrease is accounted for in the person’s business accounts, notify the Commissioners of the adjustment needed to the figures in the OSS scheme return or non-UK return (as the case may be) because of the increase or decrease.”.

(5) In sub-paragraph (3), for the words before paragraph (a) substitute “Where the change to which a notice under sub-paragraph (2) relates is an increase in the consideration for a supply, the person must pay to the Commissioners the difference between—”.

- (6) In sub-paragraph (4)—
- (a) for “UK supply” substitute “supply”;
 - (b) before “VAT” in both places it occurs insert “UK”.

- (7) In sub-paragraph (5)—
- (a) in paragraph (a), for “sub-paragraph (2)(b)” substitute “sub-paragraph (2)”;
 - (b) in paragraph (b) omit “in a case within sub-paragraph (2)(b)”.

(8) Omit sub-paragraph (6).

Amendments to Schedule 9ZE to VATA

16. In Schedule 9ZE to VATA (distance selling of goods imported to Northern Ireland: special accounting scheme), Part 4 (collection etc of UK VAT) is amended in accordance with regulations 17 to 23.

(a) The “Implementing Regulation” is defined in paragraph 38(1) of Schedule 9ZD as meaning Council Implementing Regulation (EU) No 282/2011 (OJ L 77, 23.3.2011, p. 1-22, as last amended by Commission Implementing Regulation (EU) 2020/1112 of 20 July 2020 (OJ L 244, 29.7.2020, p. 9-10)).

- 17.** In paragraph 16 (assessments: general modifications of section 73), in sub-paragraph (1)—
- (a) omit the “and” at the end of paragraph (a);
 - (b) after paragraph (b) insert—
 - “, and
 - (c) references in that section to a VAT credit included a repayment to persons who are not taxable persons of an amount of VAT paid under and in accordance with this Schedule.”.
- 18.** In paragraph 19 (deemed amendments of relevant non-UK returns), in the heading, for “non-UK returns” substitute “special scheme returns”.
- 19.** In paragraph 20 (interest on VAT: “reckonable date”), in sub-paragraph (4), for “non-UK return” substitute “relevant special scheme return”.
- 20.** In paragraph 21 (default surcharge: notice of special surcharge period), in sub-paragraph (2)—
- (a) in paragraph (a)—
 - (i) after “is that” insert “the Commissioners or”;
 - (ii) after “State” insert “(as the case may be)”;
 - (b) in paragraph (b)—
 - (i) after “is that” insert “the Commissioners or”;
 - (ii) after “authorities” insert “(as the case may be)”;
 - (c) in paragraph (c)—
 - (i) after “return,” insert “the Commissioners or”;
 - (ii) after “authorities” insert “(as the case may be)”;
 - (d) in paragraph (d)—
 - (i) after “is that” insert “the Commissioners or”;
 - (ii) after “authorities” insert “(as the case may be)”.
- 21.** In paragraph 22 (further default after service of notice), in sub-paragraph (4)—
- (a) after “pay to” insert “the Commissioners or”;
 - (b) after “State” insert “(as the case may be)”.
- 22.** In paragraph 23 (default surcharge: exceptions for reasonable excuse etc), in sub-paragraph (1), in paragraph (a)—
- (a) after “received by” insert “the Commissioners or”;
 - (b) after “State” insert “(as the case may be)”.
- 23.** In paragraph 24 (interest in certain cases of official error), in sub-paragraph (3) omit “non-UK”.

Amendments to Schedule 9ZF to VATA

- 24.** Schedule 9ZF to VATA (modifications etc in connection with Schedules 9ZD and 9ZE) is amended in accordance with regulations 25 to 26.
- 25.—**(1) Part 1 (modifications of VATA) is amended as follows.
- (2) For paragraph 5 (modifications of section 80) substitute—
- “**5.—**(1) Section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect subject to the following modifications.
 - (2) Subsection (7) has effect as if after “this section” there were inserted “(and paragraph 31 of Schedule 9ZD and paragraph 25 of Schedule 9ZE)”.

(3) That section has effect as if after subsection (7) there were inserted—

“(8) References in this section to output tax include references to UK VAT paid under and in accordance with Schedule 9ZD or 9ZE by a person who is registered under the OSS scheme or IOSS scheme (as the case may be) but who is not a taxable person.

(9) In subsection (8), “UK VAT”, the “OSS scheme” and the “IOSS scheme” have the same meanings as in Schedules 9ZD and 9ZE.

(10) References in this section to a prescribed accounting period include a tax period (within the meanings of Schedules 9ZD and 9ZE).”.

(3) After paragraph 8 insert—

“**8A.** Schedule 11 (administration, collection and enforcement) has effect as if in paragraph 4 (power to require security and production of evidence), after sub-paragraph (1A) there were inserted—

“(1B) For the purposes of sub-paragraph (1A) “VAT credit” includes a repayment of an amount of VAT paid under and in accordance with Schedule 9ZD or 9ZE (the OSS and IOSS schemes).”.

26. In Part 2 (modifications etc of other Acts), in paragraph 9 (modifications of Schedule 24 to the Finance Act 2007)—

(a) in the words before paragraph (a), for “Part” substitute “paragraph”;

(b) in the modification made by paragraph (b), after inserted sub-paragraph (4A) insert—

“(4B) In a case where a return under a special accounting scheme is required to be submitted to an authority other than HMRC, for the purposes of sub-paragraph (1) the return is regarded as given to HMRC when it is submitted to that authority.”.

PART 2

Amendments to secondary legislation

Amendments to the Value Added Tax Regulations 1995

27. The Value Added Tax Regulations 1995(a) are amended in accordance with regulations 28 to 31.

28. In Part 16 (importations, exportations and removals in respect of Great Britain), after regulation 121D (modifications and exceptions for the application of returned goods relief) insert—

“Repayment of import VAT to certain taxable persons

121E.—(1) This regulation applies where—

(a) a taxable person(b) (“P”) has paid to the Commissioners an amount in respect of import VAT (“the import VAT”) and P is entitled to repayment of that amount because—

(i) the import VAT was not due when it was paid;

(ii) a reduced duty case within the meaning of Chapter 2 of Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018(c) applies; or

(a) S.I. 1995/2518; relevant amending instruments are S.I. 2020/1545 and 2021/715.

(b) “Taxable person” is defined in section 96(1) of VATA.

(c) S.I. 2018/1248; amended by S.I. 2019/486, 2019/1346 and 2020/1605. There are other amending provisions, but none is relevant.

(iii) all or part of the import duty(a) which was included (by virtue of section 21(2)(a) of the Act(b)) in the value of the imported goods has been remitted or repaid; and

(b) P did not account for the import VAT in accordance with regulation 4 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(c).

(2) P may make a negative entry for the import VAT in the VAT payable portion of P's VAT account.

(3) Where P has deducted an amount of input tax in respect of the import VAT and makes the entry under paragraph (2), P must also make a negative entry in the VAT allowable portion of P's VAT account for that input tax.

(4) The entries under paragraphs (2) and (3) may be made in the part of P's VAT account which relates to the prescribed accounting period(d) in which P becomes aware of P's entitlement to repayment or a later prescribed accounting period.

(5) The entry under paragraph (2) may not be made more than 4 years after the end of the prescribed accounting period in which the importation of the goods took place.

(6) Except as provided by this regulation, no claim for repayment or credit in relation to the import VAT may be made (and, accordingly, section 16(2) of the Act(e) does not have effect to the extent that it would apply a different provision about the way in which a claim for repayment or credit in relation to the import VAT may be made).

(7) For the purposes of this regulation—

“import VAT” means VAT chargeable by virtue of section 1(1)(c) of the Act(f) as a result of the entry of goods into Great Britain;

“negative entry”, “VAT account”, “VAT allowable portion” and “VAT payable portion” have the same meanings as they do in regulation 24.”.

29. Part 16ZA(g) (importations, exportations and removals in respect of Northern Ireland) is amended in accordance with regulations 30 and 31.

30. After regulation 133AM (export of freight containers from Northern Ireland) insert—

“Repayments of import VAT to certain persons

133AN.—(1) For the purposes of this regulation and regulations 133AO and 133AP, “import VAT” means VAT chargeable by virtue of section 1(1)(c) of the Act as a result of the entry of goods into Northern Ireland.

(2) Regulations 133AO and 133AP apply where a person (“P”) has paid an amount to the Commissioners in respect of import VAT (“the import VAT”) and P is entitled to repayment of that amount because—

(a) the import VAT was not due when it was paid;

(b) the import VAT is liable to be repaid under Union customs legislation(h); or

(a) “Import duty” is defined in section 96(1) of VATA.

(b) “The Act” is defined in regulation 2 of S.I. 1995/2518 as the Value Added Tax Act 1994 (c. 23). Section 21(2) was amended by paragraph 23 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA”), section 18 of the Finance Act 2006 (c. 25) and section 27 of, and paragraph 1 of Schedule 8 to, the Finance Act 1996 (c. 8).

(c) S.I. 2019/60, amended by S.I. 2020/1495, 2020/1545, 2020/715 and 2021/1375.

(d) “Prescribed accounting period” is defined in section 96(1) of VATA.

(e) Section 16 was substituted by paragraph 13 of Schedule 8(1) to TCTA.

(f) Section 1(1)(c) was substituted by section 42(2)(b) of TCTA.

(g) Part 16ZA was inserted by S.I. 2020/1545.

(h) “Union customs legislation” is defined in paragraph 1(8) of Schedule 9ZB to VATA. Schedule 9ZB to VATA was inserted by paragraph 2 of Schedule 2(1) to the Taxation (Post-transition Period) Act 2020 (c. 26).

- (c) all or part of the relevant NI import duty^(a), which was included (by virtue of section 21(2)(a) of the Act) in the value of the imported goods, has been remitted or repaid.

133AO.—(1) This regulation applies where P—

- (a) is not a taxable person; or
- (b) has paid the import VAT on behalf of a person who is not a taxable person.

(2) P may make an application for the repayment of the import VAT as if P’s case were a reduced duty case under Chapter 2 of Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018 and as if the import VAT was paid in respect of a liability to import duty.

(3) Except as provided by this regulation, no claim for repayment in relation to the import VAT may be made (and, accordingly, paragraph 1(4) of Schedule 9ZB to the Act does not have effect to the extent that it would apply a different provision about the way in which a claim for repayment in relation to the import VAT may be made).

133AP.—(1) This regulation applies where—

- (a) P is a taxable person; and
- (b) P did not account for the import VAT in accordance with regulation 4 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019.

(2) P may make a negative entry for the import VAT in the VAT payable portion of P’s VAT account.

(3) Where P has deducted an amount of input tax in respect of the import VAT and makes the entry under paragraph (2), P must also make a negative entry in the VAT allowable portion of P’s VAT account for that input tax.

(4) The entries under paragraphs (2) and (3) may be made in the part of P’s VAT account which relates to the prescribed accounting period in which P becomes aware of P’s entitlement to repayment or a later prescribed accounting period.

(5) The entry under paragraph (2) may not be made more than 4 years after the end of the prescribed accounting period in which the importation of the goods took place.

(6) Except as provided by this regulation, no claim for repayment or credit in relation to the import VAT may be made (and, accordingly, paragraph 1(4) of Schedule 9ZB to the Act does not have effect to the extent that it would apply a different provision about the way in which a claim for repayment or credit in relation to the import VAT may be made).

(7) For the purposes of this regulation, “negative entry”, “VAT account”, “VAT allowable portion” and “VAT payable portion” have the same meanings as they do in regulation 24.”.

31. In regulation 133E (supplies to persons departing from the relevant states), for paragraph (1) substitute—

“(1) The Commissioners may, on application by any person who intends to depart from the relevant states within 9 months and remain outside the relevant states for a period of at least 6 months, permit that person within 6 months (or 30 days if the motor vehicle is to be removed to Great Britain) of the person’s intended departure to purchase, from a registered person, a motor vehicle located in Northern Ireland at the time of purchase without payment of VAT, for subsequent export, and its supply, subject to such conditions as they may impose, shall be zero-rated.”.

(a) “Relevant NI import duty” is defined in paragraph 1(8) of Schedule 9ZB to VATA.

Amendments to the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020

32. The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020(a) are amended in accordance with regulations 33 to 35.

33. Part 4 (accounting for VAT on removals: non-taxable persons) is amended in accordance with regulations 34 and 35.

34. In the heading omit “: non-taxable persons”.

35. After regulation 19 (credit for VAT on goods removed from Great Britain to Northern Ireland) insert—

“Credit for VAT on goods imported into Great Britain for removal to Northern Ireland

19A.—(1) Paragraph (2) applies where—

- (a) goods are imported into the United Kingdom as a result of their entry into Great Britain or are imported into the Isle of Man and a person (“P”) is liable for the VAT payable as a result of that importation (“the importation”);
- (b) the goods are imported in order to be delivered to an address in Northern Ireland;
- (c) following the importation the goods are removed to Northern Ireland and VAT is payable as a result of their entry into Northern Ireland (“the NI entry”); and
- (d) the goods are not altered, modified or supplied for consideration after the importation and prior to the NI entry.

(2) Where this paragraph applies and subject to paragraph (4)—

- (a) P (and only P) is to be treated as having imported the goods into Northern Ireland for the purposes of paragraph 4 of Schedule 9ZB to VATA(b);
- (b) P is granted a credit (“the credit”) in accordance with paragraph (3); and
- (c) P is deemed to have made a payment equal to the credit in respect of the VAT payable as a result of the NI entry.

(3) The credit is the VAT payable as a result of the importation but only to the extent it does not exceed the VAT payable as a result of the NI entry.

(4) If the amount of the VAT due on the NI entry exceeds the amount of credit, P must account for and pay the balance in such form and manner, and at such time, as may be specified by the Commissioners in a public notice(c), or as they may direct in a particular case.

(5) This regulation is to be treated, for the purposes of VATA, as if it had been made under that Act.”.

*Amanda Solloway
Michael Tomlinson*

4th March 2022

Two of the Lords Commissioners of Her Majesty’s Treasury

*Angela MacDonald
Katherine Green*

4th March 2022

Two of the Commissioners for Her Majesty’s Revenue and Customs

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- (a) S.I. 2020/1546, to which there are amendments not relevant to these Regulations.
 - (b) Regulation 2 of the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 provides that the Value Added Tax Act 1994 is referred to in those Regulations as “VATA”.
 - (c) A public notice made under regulation 19A(4) of the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 will be made available on the www.gov.uk website as described in that link. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 2621 for outside the UK requests) or by writing to— BT VAT, HM Revenue and Customs, BX9 1WR, United Kingdom.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments to value added tax (“VAT”) legislation.

Part 1 of these Regulations amends Schedules 9ZD and 9ZE, and Parts 1 and 2 of Schedule 9ZF, to the Value Added Tax Act 1994 (c. 23) (“VATA”). Those Schedules establish the rules for using two European Union (“EU”) special accounting schemes in relation to VAT in the United Kingdom (“UK”). The first scheme is known as the One Stop Shop scheme (“OSS”), which concerns accounting for distance selling within the EU and Northern Ireland. The second scheme is known as the Import One Stop Shop scheme (“IOSS”), which concerns accounting for distance selling from outside the territory of Northern Ireland and the EU into that territory.

Part 2 of these Regulations amends secondary legislation concerning VAT. These include amendments to the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the VAT Regulations”) to correct a minor error and to make provision in relation to the mechanisms for repayment of amounts paid in respect of import VAT, as well as amendments to the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546) (“the 2020 Regulations”) to provide for the VAT treatment of goods which are imported into Northern Ireland from outside the UK via Great Britain or the Isle of Man.

Regulations 3, 4, and 6 to 15, make changes to Schedule 9ZD to VATA to ensure that the same rules apply to persons registered for OSS in the UK as they do to persons registered for OSS outside the UK where supplies are treated as made in the UK and, accordingly, UK VAT is due. In particular, the rules make clear that any enforcement provisions, such as how a person is to account for adjustments, or how the UK is to assess for VAT or apply penalties or interest, under OSS apply in the same terms to all persons registered for the scheme and accounting for UK VAT. Regulation 5 introduces new paragraph 15A into Schedule 9ZD to make clear that a person that is registered for OSS and accounting for their supplies under that scheme is not subject to double taxation or double accounting if they are also registered for VAT in the UK under VATA.

Regulations 16 to 23 make changes to Schedule 9ZE to VATA to ensure that the same rules apply to persons registered for IOSS in the UK as they do to persons registered for IOSS outside of the UK where there is UK VAT due. In particular, the rules make clear that any enforcement provisions such as how the UK is to assess for VAT, or apply penalties or interest, under IOSS, apply in the same terms to all persons registered for the scheme and accounting for UK VAT.

Regulations 24 to 26 make changes to Parts 1 and 2 of Schedule 9ZF to VATA to ensure that the same rules apply to persons registered for OSS and IOSS in the UK as they do to persons registered for those schemes outside the UK, where there is UK VAT due. Regulation 25 modifies section 80 of VATA to make clear that the same rules in relation to overpayments apply in the same terms to all persons registered for the OSS and IOSS schemes and accounting for UK VAT. That regulation also modifies paragraph 4 of Schedule 11 to VATA to permit the Commissioners to request security for repayments made under OSS and IOSS rules, which brings the position in line with UK legislation where those schemes are not used. Regulation 26 modifies Schedule 24 to the Finance Act 2007 (c. 11) to make clear that penalties for errors made in returns apply equally to persons who have submitted returns under OSS or IOSS outside the UK as those who submit their returns to the UK directly. That regulation also corrects a minor error which does not obscure the legislative intent but which ought to be corrected to avoid misleading readers.

Regulations 27 to 31 amend the VAT Regulations. Regulation 28 inserts regulation 121E into the VAT Regulations in relation to an amount paid in respect of import VAT as the result of the entry of goods into Great Britain and regulation 30 inserts regulations 133AN, 133AO and 133AP into the VAT Regulations in relation to an amount of import VAT paid as the result of an entry of goods into Northern Ireland. Regulation 133AN provides that the scope of that regulation, and regulations 133AO and 133AP, is limited to import VAT incurred as a result of the entry of goods into Northern Ireland and lists the circumstances which may give rise to an entitlement to

repayment of import VAT for the purposes of regulations 133AO and 133AP. Regulations 121E and 133AP provide that, where a taxable person who has opted not to account for an amount of import VAT using the postponed accounting procedure under regulation 4 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019 (S.I. 2019/60) becomes entitled to repayment of that amount, that person may now only claim the VAT by making a negative entry for the import VAT in the VAT payable portion of the VAT account and a negative entry for any input tax deducted in respect of the import VAT in the VAT allowable portion of the VAT account. Regulation 133AO provides that where a non-taxable person, or a person who has paid import VAT on behalf of a non-taxable person, becomes entitled to a repayment of an amount paid in respect of import VAT as the result of the entry of goods into Northern Ireland, that person may now only claim repayment of that amount using the mechanism prescribed for repayment of import duty by Chapter 2 of Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018 (S.I. 2018/1248). Regulation 31 also amends the VAT Regulations to clarify the wording of regulation 133E to correct a minor error which does not obscure the legislative intent but which ought to be corrected to avoid misleading readers.

Regulations 32 to 35 insert a new regulation 19A into the 2020 Regulations which applies where goods have been imported into the UK via Great Britain or imported into the Isle of Man for the purpose of delivery to Northern Ireland. Where a person (“P”) is liable for the VAT payable as a result of that importation (“the importation”) and is not already liable for the VAT due on the entry of the goods into Northern Ireland (“the NI entry”), P is deemed to be so liable but is also granted a credit (“the credit”). The credit is equal to the amount of the VAT due on the importation but only to the extent that that sum does not exceed the VAT due on the NI entry. P is deemed to have paid that credit in respect of the VAT payable on the entry. Where the amount due in respect of the entry exceeds the credit, P must account for the excess in the form and manner specified by the Commissioners for HMRC (either in a public notice or in a particular case).

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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