



# Tackling VAT evasion on road vehicles brought into the UK

## **Consultation document**

Publication date: 31/05/2011

Closing date for comments: 31/08/2011

<b>Subject of this consultation:</b>	This consultation is about the implementation of a new online notification (and in some cases, payment) system to be introduced in 2013 for vehicles brought into the UK for permanent use on UK roads. This is a joint HMRC/Driver and Vehicle Licensing Agency (DVLA) initiative aimed at countering the high levels of VAT fraud in this area and simplifying the system for all users.
<b>Scope of this consultation:</b>	The introduction of a new online notification system for road vehicles brought into the UK was announced at Budget 2011. The decision to move to a system of online notification is settled and this does not form part of this consultation exercise. Instead, this document is designed in part to give early notification of the likely features of the new system, but also to consult on those features where decisions have still to be made, to improve HMRC's understanding of the impacts of the change, and to help inform the smooth introduction of the new system. The aim is to make it as easy as possible for individuals and businesses to comply with the new system.
<b>Who should read this:</b>	Those who bring road vehicles into the UK either in a business capacity or as a private individual for permanent use on UK roads, and their representatives.
<b>Duration:</b>	The consultation period for this document runs from 31 May 2011 to 31 August 2011.
<b>Enquiries:</b>	Responses and enquiries concerning this consultation should be directed to:  Richard Bysouth HMRC VAT Projects Team 3C/10 100 Parliament Street London SW1A 2BQ  Telephone 0207 147 0328 Email: richard.bysouth@hmrc.gsi.gov.uk.
<b>How to respond:</b>	Written responses can be submitted by post or email.
<b>Additional ways to be involved:</b>	HMRC is happy to meet with and speak to interested parties. Contact details as above.
<b>After the consultation:</b>	A summary of responses and draft legislation will be published in time for scrutiny and comment in advance of Finance Bill 2012.
<b>Getting to this stage:</b>	This consultation reflects analysis carried out by HMRC and discussions with the DVLA. It has also been informed by development of HMRC's online capability and the Government's Digital Default agenda.
<b>Previous engagement:</b>	None.

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**On request this document can be produced in Welsh and alternative formats including large print, audio and Braille.**

# 1 Introduction

1.1 The Government announced at Budget 2011 a joint HMRC-DVLA initiative to combat VAT fraud on road vehicles brought into the UK. From 2013 vehicles entering the country for permanent use on UK roads will have to be notified to HMRC online before the vehicle is registered with the DVLA. Currently these vehicles are notified to HMRC via a variety of forms. This is not an efficient way to collect tax and the system is being exploited by organised criminals. An online I.T. based solution will address the fraud and streamline the system for legitimate users.

Based on the information provided, HMRC will assess whether the payment of the VAT on the vehicle is secure, thus enabling DVLA to refuse vehicle licensing and registration where the VAT is not shown as secure. Law covering this scheme will be introduced in Finance Bill 2012.

## Background

1.2 When a road vehicle is brought into the UK for permanent use and prior to it being used or parked on public roads:

- VAT on the vehicle must be accounted for to HMRC (unless the vehicle is eligible for relief); and
- the vehicle must be licensed and registered through the DVLA.

1.3 Responsibility for paying any VAT due lies with the person bringing in the vehicle from abroad; but the application to license and register the vehicle is made by the vehicle keeper – who may not be the same person. Thus, as part of its licence and registration procedures, the DVLA requests evidence that the VAT has been paid or will be accounted for. Without such evidence, the DVLA is entitled in law to refuse licensing and registration.

1.4 However, the absence of real-time information about vehicles brought into the UK has resulted in a serious problem with non-payment of VAT. The current system is being exploited by fraudsters, depriving the Exchequer of essential tax revenues. This also makes the system unfair for those taxpayers who pay their VAT correctly.

## New Online System to Tackle Fraud

1.5 The Government is therefore taking action to counter this fraud by introducing a mandatory, online notification process (replacing the existing paper based system) from 2013. This will apply to both new and used road vehicles entering the country for permanent use on UK roads from both EU and non-EU countries. Immediate online payment of VAT will be required for new road vehicles brought in from the EU by non-VAT-registered persons (or VAT-registered persons bringing in vehicles as individuals for their own personal use) and all vehicles arriving from non-EU countries through unmanned ports.

1.6 This system will apply to vehicles brought in from abroad which need to be registered for the first time in the UK using the DVLA's V55/4 and V55/5 forms for new and used vehicles respectively. It will not apply to vehicles covered by the DVLA's Automated First Registration and Licensing systems as existing controls mean that the VAT on these vehicles is already secure.

1.7 For those vehicles covered by the new system, information about the vehicle and the acquirer/keeper will have to be submitted online to HMRC. An automated risk assessment will then take place based on the information submitted, control criteria (such as parameters for expected values of vehicles based on make, model and age of vehicle) and information held on existing HMRC systems to determine whether any VAT due is considered 'secure' (i.e. has been or will be paid) or not. The new system will enable HMRC to create a comprehensive database of vehicles coming into the UK which will enhance the Department's risk assessment capability.

1.8 The DVLA will have limited access to this information using the Vehicle Identification Number (VIN) and will refuse vehicle licensing and registration where the VAT on the vehicle has been assessed as 'not secure'. Where the VAT on a vehicle is assessed as not secure, affected taxpayers can either provide further information to HMRC to demonstrate that the VAT is secure or they can pay the VAT early, enabling their vehicle to be re-assessed as 'VAT secure'.

1.9 The new online system will replace a range of paper based forms. It will therefore streamline and simplify the process, as well as counter significant levels of fraud. It is estimated that around 150,000 to 200,000 vehicles per year will be affected by this change.

1.10 While there is some risk that fraudsters could continue to evade VAT by not licensing and registering the vehicle, the downsides of not having a vehicle legally registered are significant. For example, unregistered vehicles cannot readily be sold on, making this an effective deterrent. Additionally, there are benefits for road safety as first licensing and registration ensures the vehicle was properly insured.

1.11 Implementation of the system requires legislative change. Draft primary law will be published in the Autumn as part of the draft Finance Bill 2012. Draft secondary legislation will be published alongside it.

## **The Purpose of this Consultation**

1.12 The Government has decided to move to an online notification system to combat the significant levels of VAT fraud which are a feature of the current paper-based system for bringing roads vehicles into the UK. This decision is not open to consultation. However the Government recognises that businesses and individuals (and their representatives) can play an important part in the successful implementation of the new system in a way which ensures that the fraud is tackled and the costs to business, individuals and HMRC are minimised. This document gives early notification of some likely features of the new system and provides an opportunity for concerns to be raised.

## 2 VAT and vehicle registration

### Vehicle registration

2.1 When a road vehicle is brought permanently into the UK and prior to it being used or parked on public roads:

- VAT on the vehicle must be accounted for to HMRC (unless the vehicle is eligible for relief); and
- the vehicle must be licensed and registered through the DVLA.

2.2 Section 8 of the Vehicle and Excise Registration Act 1994 provides for licensing and registration of the vehicle to be refused unless the Secretary of State is satisfied that any VAT due on the acquisition (from an EU country) or import (from a non-EU country) of the vehicle has been or will be paid.

### The VAT position

#### EU Movement – New vehicle

2.3 Where a new<sup>1</sup> road vehicle is permanently removed from one EU Member State (MS) to another, this is known as an acquisition. The person carrying out the vehicle movement is known as the “acquirer”. VAT is not charged in the MS where the vehicle has been purchased. However, VAT must be declared and paid in the MS where the vehicle is moved to for permanent use (unless one of the relevant tax reliefs applies).

2.4 How the VAT is accounted for and paid depends upon whether the acquirer is VAT registered or not:

- VAT registered businesses must account for and pay the VAT through their normal VAT return; and
- non-VAT registered businesses and private individuals have to notify HMRC within 7 days of the time of acquisition or the arrival of the vehicle into the UK, whichever

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Note – (i) a ‘**new**’ vehicle is one which has been in service less than 6 months and has travelled less than 6000 kilometres under its own power.

(ii) a road vehicle is a motorised land vehicle which:

- has an engine with a displacement or cylinder capacity of more than 48 cubic centimetres, or
- is constructed or adapted to be electrically propelled using more than 7.2 kilowatts (about 9.65 horsepower).

is the later. Following this, HMRC issue a demand for the VAT which has to be paid within 30 days.

### **EU Movement – Used Vehicle**

2.5 Where VAT is due and was paid in the MS of purchase, no further VAT will be due in the UK. Although, these vehicles must be notified to HMRC to ensure subsequent licensing and registration by the DVLA. For vehicles transferred by a VAT-registered business from another MS without change of ownership, VAT will only be due in the UK if VAT on the purchase was recovered in the MS of origin as a business expense.

### **EU Movement – Disabled Persons and Charities Relief**

2.6 No VAT is due in the UK on certain types of vehicles for use by disabled persons or charities, if the relevant conditions are met. Please see public notice 701/59 section 9 for further information.

### **Non-EU – New and Used Vehicle Movements**

2.7 VAT is due on new and used vehicles brought in from non-EU countries (known as imports) and has to be declared and paid at the port of entry. However, where the importer is registered for VAT the payment may be deferred by the use of a deferment account. In certain circumstances, import VAT and duty may be partly relieved if the conditions of certain non-EU import reliefs (for example, disability reliefs, transfer of residence relief or returned goods relief persons' relief and NATO visiting forces) are met.

### **EU Movement – Visiting Forces/Diplomatic Relief**

2.8 When a vehicle has been acquired by a Member of a Visiting Force, a Diplomat posted to the UK, or by a Member of HM Forces who are returning to the UK no VAT is due if certain conditions are met.

## 3 Notification requirements under the new system

3.1 Online notification will be required for road vehicles entering the UK for permanent use on UK roads from both within and outside the EU, whether new or used. This notification requirement replaces existing forms. All those required to notify under the new system already have an obligation to notify HMRC under existing rules. The change is simply to make the notification an online one. Specifically the system will apply to all road vehicles permanently brought into the UK as follows:

- new and used vehicles entering the UK from both EU and non-EU countries by either a VAT registered business, non VAT registered business or a private individual;
- movements of vehicles within the EU which do not involve a change of ownership; and
- the hire, leasing or rental of new means of transport vehicles from both EU and non-EU countries.

3.2 However, the new system will not apply to:

- vehicles brought into the UK by vehicle manufacturers, their sole concessionaires, franchised dealers and independent motor dealers approved to use the DVLA's Automatic First Registration and Licensing Systems (AFRL1 and AFRL2) as these are automated systems where the VAT is considered secure (these account for around 90% of all vehicles registered the UK in any year);
- road vehicles temporarily brought into the UK from other MSs or non EU countries. For example, a private individual who brings their vehicle temporarily into the UK on holiday; or
- temporary removal of road vehicles from the UK. For example, UK holidaymakers who take their vehicles to Europe (visiting one or more MSs) and then return to the UK in them as these vehicles are already registered for use in the UK.

3.3 EU law does not allow MSs to require mandatory prior notification of vehicles entering their countries. Under the new system both individuals and businesses bringing vehicles into the UK will have to notify HMRC online within 7 days of the vehicle coming into the country. The DVLA will register vehicles that have been notified to HMRC where the VAT is assessed as secure. The DVLA will not register vehicles not notified to HMRC, and will not register notified vehicles where the VAT status of the vehicle is assessed as "not secure".

3.4 The 7 day period for notifying HMRC about vehicles coming into the UK from another MS is the same period that currently applies to non-VAT registered businesses and individuals bringing in new vehicles from the EU. VAT registered



businesses will also be required to notify vehicles brought in from other MS within the 7 day period. They will then declare the VAT due on their VAT return, as now.

3.5 Vehicles imported from non-EU countries (both new and used) have to be declared on entry into the UK for VAT and Customs Duty purposes. This requirement will remain. Commercial importers who are VAT registered will also have to notify HMRC through the new online system within the 7 day time period. This notification will replace the CE 389 form currently completed by importers for presentation to the DVLA as evidence of VAT payment.

3.6 We are still developing our information requirements but expect them to include details such as:

- make and model of vehicle;
- colour of vehicle;
- mileage; and
- date of arrival in the UK.

## Questions

- Have we identified all means by which vehicles can enter the UK as either being included or excluded from the new system?
- Can you foresee any circumstances when the proposed 7 day notification period would cause any difficulties?
- Vehicle notification will be required via an online application process. Will this requirement create any difficulties for you?
- For regular users of the system who may wish to bring in more than one vehicle at a time, we are considering allowing entry of core information once (such as name and address), with individual vehicle movements still being required on a line by line basis. Would you find such a facility useful? If so, please provide details of how often you would use such a facility.
- Do you have any other comments on the proposed new online notification process that you would like us to take into account in designing the new system? If so, please provide details.

## 4 Payment under the new system

4.1 Under the new system, online payment of VAT will be required at the same time as online notification for individuals and non-VAT registered businesses. The exception is VAT registered businesses who will continue to account for any VAT due through their VAT returns (provided the VAT on the vehicle is assessed as secure under the new system).

4.2 Occasionally, vehicles are imported through unmanned ports. Although current law provides that the VAT on imported vehicles should be declared and paid immediately, this is not possible where a port is unmanned. As a result, payment of both the VAT and Customs duty is made at a later date. For such imports, notification and payment of the VAT will be made simultaneously online under the new system before the vehicle can be registered by the DVLA. The payment arrangements for all other imports will remain unchanged – that is, importers will continue to pay at import or through HMRC's approved deferment arrangements.

4.3 In all cases where the VAT on a vehicle is assessed as 'non-secure', businesses will have the option of providing further information to satisfy HMRC that the VAT is secure (i.e. that it will be accounted for and paid on the next VAT return). For example, information to support the value of the vehicle being declared to HMRC. Alternatively, they will be able to make payment of the VAT early in order to obtain a 'VAT secure' status for the vehicle and enable immediate vehicle registration. If a business is unable to satisfy HMRC by the provision of further information that the VAT is secure, their only option will be to pay the VAT due up-front.

4.4 Non-VAT registered businesses and individuals will be required to make an electronic payment at the time the declaration is made.

### Question

- Do you have any comments on the proposed payment system?

## 5 Approval process

5.1 Following the notification of the required information, HMRC will advise the business or individual electronically whether or not the VAT is deemed “secure”. If the VAT is “secure” the individual or business can apply to the DVLA to first licence and register the vehicle.

5.2 When the DVLA receive an application to license and register a vehicle, they will check the VAT status of the vehicle against the HMRC database. If the vehicle is assessed as ‘secure’, first licensing and registration may proceed. If the vehicle is assessed as ‘non-secure’ or does not appear on the database, the DVLA will refuse registration.

5.3 If the VAT on the vehicle has been assessed as “non-secure” this could be for a number of reasons (for example, if the business has a poor VAT return compliance history with HMRC). In these circumstances the applicant will have a choice. One option is for the business to pay the VAT immediately through the online system (in the same way as individuals or non-VAT registered businesses). Another is to contact HMRC to provide further information. If HMRC is satisfied that the VAT will be accounted for and paid through the next VAT return, the vehicle will be re-assessed as ‘secure’. Once the vehicle is “assessed” as ‘secure’ application for first licensing and registration may be made to the DVLA.

5.4 There will be no appeal process. Any appeal process would be lengthy and undermine the objective of the initiative – i.e. to enable immediate registration of the vehicle by the DVLA with the VAT known to be secure.

### Questions

- Do you have any comments on the proposed approval process?
- If you were to receive a notification of a non secure tax status, do you think you would be more likely to pay the VAT upfront or would you seek to contact HMRC to resolve the matter?

## 6 Communication of changes

6.1 To help businesses and individuals familiarise themselves with the requirements of the new process so that they know what to do in advance of the changes, HMRC and DVLA will put in place a comprehensive Communications Plan.

This is expected to include:

- detailed early guidance on HMRC's and DVLA's websites on how to use the new online system, including a section on "frequently asked questions (FAQs)";
- articles and guidance on "Direct Gov" and "Business Link" websites;
- for VAT-registered businesses, a series of prompts and a publicity campaign via messages linked to submission of their VAT returns, which will also direct them to online guidance;
- publicity at UK ports of entry, and HMRC/DVLA offices;
- publicity through trade bodies and representative groups.

HMRC will also consider any other suggestions made, for publicising this change, resulting from this consultation.

### Questions

- To help HMRC target information effectively do you represent any particular groups of businesses or individuals that should be targeted with information or publicity?
- Are there any particular types of communication material that you would find helpful?
- Do you have any other comments or suggestions on HMRC's plans for publicity and guidance?

## 7 Penalties

7.1 There will be a penalty regime, and this will be based on the current VAT penalties regime which provides (amongst other things) for penalties in the case of failure to notify or notify in the correct form, late notification and failure to pay VAT due. This will also include the appeal process for penalties issued by HMRC. Similarly, the current penalty regime for errors on returns will apply to VAT registered businesses accounting for VAT on their vehicles through their returns.

### Question

- Do you have any comments on the proposed penalty regime?

## 8 Taxes Impact Assessment

In line with the Government's Tax Consultation Framework, this chapter sets out HMRC's current assessment of the impacts of the proposed change/measures under consideration

### Summary of Impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	nil	nil	+125	+110	+105
Economic <sup>2</sup> impact	The changes will significantly reduce the scope for fraudsters to unfairly compete with legitimate trade.				
Impact on individuals and households	Individuals and households (around 18,000 in 2010) who currently bring road vehicles (via forms C384, VAT 414 and VAT 415) into the UK, will be required to pay approximately 1-2 months earlier than under the current system. There will be a cash flow impact for these persons. But they will benefit from a less burdensome online notification process to replace the existing paper forms.				
Equalities impacts	These changes are not expected to have a disproportionate impact on any equality group.				
Impact on businesses and third sector	<p>Less burdensome online notification process will replace existing manual processes for all users of the system. It is estimated that 150,000 to 200,000 vehicles per year will be affected. We expect the number of businesses affected will be lower than this because some will bring in several vehicles per year.</p> <p>There will be one off impacts for existing businesses that bring vehicles into the UK as they will have to familiarise themselves with the new guidance and use of HMRC's online notification system.</p> <p>VAT registered businesses bringing in vehicles where the VAT is assessed as non-secure and who are unable to provide satisfactory evidence that the VAT will be paid on their next VAT return will be unable to get their vehicles registered for use on UK roads by the DVLA until the VAT is paid.</p> <p>Non VAT registered business will be required to pay the VAT due</p>				

<sup>2</sup> These figures were set out in Table 2.1 of Budget 2011 and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the 2011 Budget.

	<p>immediately, and they will need to notify the vehicle movement online rather than via a paper form.</p> <p>VAT registered businesses bringing in vehicles where the VAT is assessed as secure, will continue to account for VAT via their VAT returns and the DVLA will register their vehicle. The main impact is the need to notify the vehicle movement online rather than via a paper form.</p>
Impact on HMRC or other public sector delivery organisations	<p>HMRC will meet the costs of development of the IT system. The DVLA will refuse vehicle registration where the VAT is not assessed as 'secure'.</p>
Other impacts	<p>None identified as yet.</p> <p>The online system will have benefits for the DVLA, it will reduce the number of unlicensed and uninsured vehicles on the road.</p>

### Question

- Do you have any views on the assessment of impacts in Chapter 8?

## 9 Summary of Consultation Questions

- Have we identified all means by which vehicles can enter the UK as either being included or excluded from the new system?
- Can you foresee any circumstances when the proposed 7 day notification period would cause any difficulties?
- Vehicle notification will be required via an online application process. Will this requirement create any difficulties for you?
- For regular users of the system who may wish to bring in more than one vehicle at a time, we are considering allowing entry of core information once (such as name and address), with individual vehicle movements still being required on a line by line basis. Would you find such a facility useful? If so, please provide details of how often you would use such a facility.
- Do you have any other comments on the proposed new online notification process that you would like us to take into account in designing the new system? If so, please provide details.
- Do you have any comments on the proposed payment system?
- Do you have any comments on the proposed approval process?
- If you were to receive a notification of an unsecure tax status, do you think you would be more likely to pay the VAT upfront or would you seek to contact HMRC to resolve the matter?
- To help HMRC target information effectively do you represent any particular groups of businesses or individuals that should be targeted with information or publicity?
- Are there any particular types of communication material that you would find helpful?
- Do you have any other comments or suggestions on HMRC's plans for publicity and guidance?
- Do you have any comments on the proposed penalty regime?
- Do you have any views on the assessment of impacts in Chapter 8?

To help us put the information provided into context, we would be grateful if respondents could also provide the following information:

- Are you a business or private individual?
- If a business, are you registered for VAT?



- How many vehicles do you bring in each year for permanent use on UK roads from a) EU countries and b) non-EU countries?
- It would be helpful to know the volume of vehicles you bring in each year for permanent use on UK roads in respect of a) EU acquisitions of new means of transport and used and b) Non EU imports of new and used vehicles?
- Do you make use of an agent when bringing in vehicles from non-EU countries?

# 10 The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting law to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of the specific proposal. It is not seeking views on alternative proposals.

## How to respond

A summary of the questions in this consultation is included at chapter 9.

Responses should be sent by 31/08/2011, by e-mail to [richard.bysouth@hmrc.gsi.gov.uk](mailto:richard.bysouth@hmrc.gsi.gov.uk)

or by post to: HMRC VAT Projects Team  
Richard Bysouth  
Room 3c/10  
100 Parliament Street  
London SW1A 2BQ

Telephone enquiries – Richard Bysouth 0207 147 0328

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at <http://www.hmrc.gov.uk/consultations/index.htm>. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

## **Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## **The Consultation Code of Practice**

This consultation is being conducted in accordance with the Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

# Annexe A: The Code of Practice on Consultation

## About the consultation process

This consultation is being conducted in accordance with the Code of Practice on Consultation.

The consultation criteria

1. When to consult - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Duration of consultation exercises - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Clarity of scope and impact - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Accessibility of consultation exercise - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. The burden of consultation - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Responsiveness of consultation exercises - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Capacity to consult - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints or comments about the process, please contact:

Richard Bowyer, Consultation Coordinator, Better Regulation and Policy Team, HM Revenue & Customs, Room 3E13, 100 Parliament Street, London, SWA 2BQ

020 7147 0062 or e-mail [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

# Annexe B: Relevant (current) Government Law

## **A – Section 8 of the Vehicle and Excise Registration Act (VERA) 1994.**

### **8.**

Vehicles removed into UK.

— (1) Where an application is made for a vehicle licence for a vehicle which—

(a) appears to the Secretary of State to have been removed into the United Kingdom from a place outside the United Kingdom, and

(b) is not already registered under this Act,

the Secretary of State may refuse to issue the licence unless subsection (2) applies to the vehicle.

(2) This subsection applies to a vehicle if the Secretary of State is satisfied in relation to the removal of the vehicle into the United Kingdom—

(a) that any value added tax charged on the acquisition of the vehicle from another member State, or on any supply involving its removal into the United Kingdom, has been or will be paid or remitted,

(b) that any value added tax or customs duty charged on the importation of the vehicle from a place outside the member States has been or will be paid or remitted, or

(c) that no such tax or duty has been charged on the acquisition or importation of the vehicle or on any supply involving its removal into the United Kingdom.

## **B - Road Vehicle (Registration and Licensing) Regulations 2002 (2742/2002)**

### **Disclosure of registration and licensing particulars**

**27.** - (1) The Secretary of State may make any particulars contained in the register available for use -

(a) by a local authority for any purpose connected with the investigation of an offence or of a decriminalised parking contravention;

(b) by a chief officer of police;

(c) by a member of the Police Service of Northern Ireland;

(d) by an officer of Customs and Excise in Northern Ireland; or

(e) by any person who can show to the satisfaction of the Secretary of State that he has reasonable cause for wanting the particulars to be made available to him.

## **Section 10 VATA 94 Scope of VAT on acquisitions from Member States.**

(1) VAT shall be charged on any acquisition from another member State of any goods where—

(a) the acquisition is a taxable acquisition and takes place in the United Kingdom;

(b) the acquisition is otherwise than in pursuance of a taxable supply; and

(c) the person who makes the acquisition is a taxable person or the goods are subject to a duty of excise or consist in a new means of transport.

(2) An acquisition of goods from another member State is a taxable acquisition if—

(a) it falls within subsection (3) below or the goods consist in a new means of transport; and

(b) it is not an exempt acquisition.

(3) An acquisition of goods from another member State falls within this subsection if—

(a) the goods are acquired in the course or furtherance of—

(i) any business carried on by any person; or

(ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body;

(b) it is the person who carries on that business or, as the case may be, those activities who acquires the goods; and

(c) the supplier—

(i) is taxable in another member State at the time of the transaction in pursuance of which the goods are acquired; and

(ii) in participating in that transaction, acts in the course or furtherance of a business carried on by him.

## **Section 11 VATA 94 : Meaning of acquisition of goods from another Member State.**

(1) Subject to the following provisions of this section, references in this Act to the acquisition of goods from another member State shall be construed as references to any acquisition of goods in pursuance of a transaction in relation to which the following conditions are satisfied, that is to say—

(a) the transaction is a supply of goods (including anything treated for the purposes of this Act as a supply of goods); and

(b) the transaction involves the removal of the goods from another member State;

and references in this Act, in relation to such an acquisition, to the supplier shall be construed accordingly.

(2) It shall be immaterial for the purposes of subsection (1) above whether the removal of the goods from the other member State is by or under the directions of the supplier or by or under the directions of the person who acquires them or any other person.

(3) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply shall be treated for the purposes of this Act as a transaction in pursuance of which there is an acquisition of goods by the person making it.

(4) The Treasury may by order provide with respect to any description of transaction that the acquisition of goods in pursuance of a transaction of that description is not to be treated for the purposes of this Act as the acquisition of goods from another member State.

## **Section 15 VATA 94 : General provisions relating to imported goods**

(1) For the purposes of this Act goods are imported from a place outside the member States where—

(a) having been removed from a place outside the member States, they enter the territory of the Community;

(b) they enter that territory by being removed to the United Kingdom or are removed to the United Kingdom after entering that territory; and

(c) the circumstances are such that it is on their removal to the United Kingdom or subsequently while they are in the United Kingdom that any Community customs debt in respect of duty on their entry into the territory of the Community would be incurred.

(2) Accordingly—

(a) goods shall not be treated for the purposes of this Act as imported at any time before a Community customs debt in respect of duty on their entry into the territory of the Community would be incurred, and

(b) the person who is to be treated for the purposes of this Act as importing any goods from a place outside the member States is the person who would be liable to discharge any such Community customs debt.

(3) Subsections (1) and (2) above shall not apply, except in so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(1), for construing any references to importation or to an importer in any enactment or subordinate legislation applied for the purposes of this Act by section 16(1).



## **Schedule 11 VATA 94 paragraph 2 (4) and (5)**

4) Regulations under this paragraph may make provision in relation to cases where—

(a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in the United Kingdom from another member State by any person;

(b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply; and

(c) that person is not a taxable person at the time of the acquisition,

for requiring the person who acquires the goods to give to the Commissioners such notification of the acquisition, and for requiring any VAT on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations.

(5) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (4) above—

(a) to contain such particulars relating to the notified acquisition and any VAT chargeable thereon as may be specified in the regulations; and

(b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.

## Annexe C: Current system

On presenting an application for licensing and vehicle registration at the DVLA, the vehicle keeper or owner is required to provide evidence concerning the VAT status of the vehicle. This evidence varies dependent on whether the vehicle is for private or business use, new/used, from an EU or non-EU country or subject to a limited number of tax reliefs (these reliefs are available for EU and non-EU movements).

In the majority of cases, a self-declaration is completed by the importer/acquirer that VAT has or will be paid. In a small number of cases, HMRC will issue a certificate to the importer.

In cases where the importer/acquirer and keeper are different, the forms will be passed by the former to the latter to enable presentation to the DVLA and registration of vehicle.

### Summary

- **New means of transport<sup>3</sup> from EU country by a non-VAT registered businesses or private individual** – the VAT 415 form is completed by the acquirer and presented to the DVLA when an application to license and register the vehicle is made. Following vehicle licensing and registration, the DVLA forward the completed VAT 415 form to HMRC who then issues a demand to the acquirer for payment of any VAT due within 30 days of the date of issue or grant relief if applied for.
- **Used vehicles acquired from EU countries by non-VAT registered businesses or private individual** – the VAT 414 form is completed by the acquirer. No VAT is due in the UK, as the tax would have been accounted for in the other MS. Following vehicle licensing and registration, the DVLA forward the completed VAT 414 form to HMRC.
- **New or used vehicles acquired in the EU by a VAT registered business** - the VAT 414 form is completed by the acquirer and includes a declaration as to whether VAT will or will not be declared on its next VAT return. Following vehicle licensing and registration, the DVLA forward the completed VAT 414 form to HMRC.
- **Imports of new/used vehicles from non-EU countries by non-VAT registered businesses/private individuals** – payment of VAT made at time of import and the C 384 certificate is endorsed by HMRC staff. However, if the vehicle is brought in through an unmanned port, notification is made to HMRC who issues a demand for payment of VAT (and duty) accordingly.

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<sup>3</sup> Note – (i) a 'new' vehicle is one which has been in service less than 6 months and has travelled less than 6000 kilometres under its own power.

- **Imports of new/used vehicles from non-EU countries by a VAT registered business** – payment is made either at import or through HMRC's approved deferment system which guarantees payment. The CE389 form is completed by the importer or their agent.
- **Vehicles eligible for import relief from VAT and possibly duty – applies to non-EU imported vehicles by non VAT registered businesses and private individuals** these vehicles are declared at import along with evidence to support the relief being claimed and verification takes place by HMRC staff. If verification is satisfactory, HMRC will issue a certificate to validate the relief. The DVLA will not register an imported non EU vehicle without such a certificate.
- **EU acquisition of a motor vehicle specially adapted for use by a disabled person** - in certain circumstances, these vehicles are subject to a VAT relief upon acquisition into the UK. An application to license and register the vehicle is made to the DVLA via form VAT 415. Following the completion of this process, the DVLA will forward the VAT 415 form to HMRC. Supporting documents are then requested by HMRC, if satisfied entitlement to a tax relief will be notified to the applicant or a demand for VAT will be issued if the relief is not appropriate or the conditions have not been met.

## Annexe D: Frequently asked questions and answers

Q1 When will the system go live?

A1 It is planned that the system will be operational in 2013.

Q2 How soon after vehicle entry will notification be required?

A2 Notification will be required within 7 days of the vehicle coming into the country.

Q3 Which vehicles are required to be notified to HMRC? Are there any exceptions?

A3 All vehicles, new and used, which are brought into the UK from both EU and non-EU countries for permanent use on UK roads must be notified to HMRC, other than:

a) new vehicles brought in by vehicle manufacturers, their appointed sole concessionaires and franchised dealerships under the DVLA's Automatic First Registration and Licensing system;

b) new vehicles brought in by independent motor dealers who are approved to use the DVLA's simplified secure system.

Q4 Will I be required to make a notification under this system if (i) I bring my vehicle temporarily into the UK, for example I visit the UK for a holiday or (ii) I am a UK resident returning to the UK from a holiday abroad with my vehicle ?

A4 No. The system will not impact upon visitors bringing their vehicles temporarily into the UK, or to UK residents returning to the UK with vehicles previously registered for use within the UK.

Q5 What if I am not able to make the notification online?

A5 HMRC will be looking at ways in which they can assist any businesses and individuals, who would have difficulty making the notification online, into using the digital channel taking account of the responses received in this consultation.

Q6 How will payment of VAT be made on new vehicles brought in from the EU under the new system?

A6 VAT is due on all new means of transport arriving in the UK. If the buyer is a private individual or non-VAT registered business, the VAT due will be payable at the time of notification via an on-line payment to HMRC.

VAT registered businesses will continue to pay the VAT due through their VAT return. However, there will be an option to make an earlier VAT payment if the VAT has been assessed as 'non-secure'.

Q7 How will this measure affect payment of VAT on used vehicles purchased under the second-hand margin scheme?

A7 There is no VAT due from the purchaser of vehicles sold under the margin scheme, which applies only to certain used vehicles purchased from within the EU.

Q8 How will the measure affect payment of VAT on vehicles imported from non-EU countries?

A8 VAT is due on both new and used vehicles imported from non-EU countries. It is expected that the procedures for payment of import VAT will remain largely unchanged.

Q9 Will vehicles brought in from non-EU countries qualifying for import relief from VAT continue to do so?

A9 Yes.

Q10 Will the measure apply to commercial vehicles as well?

A10 Yes.

Q11 Will the measure apply to boats and aircraft as well?

A11 No.

Q12 Will VAT registered businesses be able to recover the VAT they pay on the purchase of cars on their VAT returns?

A12 The normal rules for reclaiming VAT on purchases will apply, including the special rules for cars.

Q13 Will I be able to "appeal" if my vehicle is refused registration by the DVLA?

A13 If the DVLA refuse registration, the applicant will be referred to HMRC. The applicant will then have the option of providing satisfactory evidence to HMRC or making payment of the VAT early to enable amendment of the vehicle's VAT status to 'secure'.