



Changes to VAT zero-rating of exports from the UK

Consultation document

Publication date: 13 May 2013

Closing date for comments: 5 July 2013

Subject of this consultation:	Changes to VAT zero-rating of exports where goods are supplied to UK VAT registered customers established in countries other than the UK. A further change will be made to amend an outdated reference to Excise law.
Scope of this consultation:	To consider whether the proposed changes to VAT law achieve the intended result and to understand the impact of the changes on affected businesses.
Who should read this:	Tax bodies, trade representative groups, UK VAT registered businesses exporting goods from the UK.
Duration:	8 weeks, from 13 May 2013 to 5 July 2013.
Lead official:	John Bryning, HMRC.
How to respond or enquire about this consultation:	Responses and queries about the content or scope of the consultation should be sent to: John Bryning, HM Revenue & Customs, VAT Process Owner Team, 1 st Floor, Regian House, Liverpool L75 1AD. Tel 03000 540786 E-mail john.bryning@hmrc.gsi.gov.uk .
Additional ways to be involved:	As the number of businesses and taxpayers affected by this change is expected to be small, we are requesting written responses. However, if a meeting would be helpful, please contact John Bryning at the above address to discuss arrangements. This document is available in other formats on request. Please contact John Bryning at the above address.
After the consultation:	A response document will be published in the autumn.
Getting to this stage:	The UK currently provides for zero-rating of goods intended to be exported outside the European Union. Where the goods are sold to another VAT registered customer who is established in a country other than the UK, the supply is not eligible for zero-rating. This is contrary to EU VAT law and, as such, UK law requires amendment. Separate legal provisions allow for the zero-rating of excise goods dispatched to persons not taxable in another member state. These provisions contain a reference to excise law which was revoked in 2010. An amendment is required to update this legal reference.
Previous engagement:	None.

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1. Introduction

1.1 At Budget 2013, the Government announced changes to VAT zero-rating rules where goods are exported from the UK. The changes will extend zero-rating to goods supplied to businesses registered for VAT in the UK but established in another country, where those businesses export the goods outside the European Union (EU). This will bring UK law in line with EU law and will assist export trade by removing a requirement for UK businesses and their customers to account for VAT.

1.2 A separate change will be made to amend an outdated reference to Excise law in respect of zero-rating of excise goods to persons not taxable in another member state.

1.3 This consultation seeks views on:

- Whether the draft legislation (see Annex A) achieves the result intended under EU law;
- What impact it may have and what administrative burdens it may give rise to.

2. Background

2.1 In principle, no VAT is due on goods which are exported from the EU (referred to as zero-rating). Strict conditions must be met before sales can be zero-rated and those conditions are laid out in Public Notice 703 *VAT: Export of goods from the United Kingdom*.

2.2 The relevant VAT law and the Public Notice reflect different ways in which goods can be exported. Direct exports occur when goods are exported under the complete control of the supplier. Indirect exports occur when goods are exported under the control of the overseas customer. The changes reflected in this consultation document relate only to the UK's conditions for zero-rating an indirect export.

2.3 Under EU VAT law (Article 146(1)(b) of Directive 2006/112), no VAT is due on indirect exports, provided the overseas customer does not have a business establishment in the supplier's country. The UK has implemented this condition into national law (Regulation 129 of VAT Regulations 1995) but with a further requirement that the customer is not registered for VAT in the UK. This is reflected in paragraph 3.4 of Public Notice 703 which excludes zero-rating where goods are supplied to a business registered for VAT in the UK.

2.4 EU law does not deny zero-rating where an indirect export takes place, and the customer is registered for VAT in the same country as the supplier but has no establishment in that country. Therefore, Regulation 129 of VAT Regulations 1995 requires amendment to ensure that UK law complies with EU law. The amendment will remove the current restriction which incorrectly excludes all UK VAT registered customers from receiving a zero-rated supply. This will mean that any customer established outside the UK will not have to pay VAT on goods they export from the EU, even if they are VAT registered in the UK. Similarly, UK suppliers involved in such trade will not be required to account for any VAT to HMRC.

2.5 The changes to VAT law will be implemented from 1 October 2013. In the meantime, businesses are entitled to zero-rate affected supplies. Similarly, where affected businesses have treated supplies as standard-rated in the past, they may now be able to apply the zero-rate to those transactions. In all cases, zero-rating will only be appropriate if the supplier holds valid evidence to show that the goods have been exported. Guidance on acceptable evidence of export is set out in section 6 of public Notice 703 *VAT: Export of goods from the United Kingdom*. Additionally, for past transactions, the recipients of the supplies in question will need to make corresponding adjustments to the amount of input tax reclaimed. Any businesses who consider that they have overdeclared VAT as a result may submit claims for repayment under section 80 of the VAT Act 1994. All claims which are submitted to HMRC must be supported by proper evidence (in accordance with regulation 37 of the VAT Regulations 1995) and are subject to the normal rules for claims, including the four-year time limit. Further guidance on making claims relating to previous VAT Return periods can be found in VAT Notice 700/45 *How to correct VAT errors and make adjustments or claims* and from the VAT Helpline on 0845 010 9000.

2.6 A separate change is required to amend an outdated reference to Excise law. Regulation 135 of VAT Regulations 1995 allows for zero-rating of certain goods dispatched to other EU Member States. This regulation sets out the conditions for zero-rating supplies including (under sub-paragraph (c) of Regulation 135) a requirement to remove the goods in question in accordance with the provisions of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992. These regulations were revoked in 2010 and replaced by the Excise Goods (Holding, Movement and Duty Point) Regulations 2010. As such, Regulation 135(c) requires amendment to reflect the correct part of Excise law.

3. How the changes will be made

Legislation

3.1 A Statutory Instrument will amend Regulation 129(1)(a) and Regulation 135(c) of the VAT Regulations 1995. The revised legislation will come into force on 1 October 2013. A draft of the Statutory Instrument is contained in Annex A.

Question 1

Do you consider that the draft legislation will achieve the intended policy change?

Publicity

3.2 Advance publicity of the proposed change was given at Budget 2013. Further publicity will be provided in September 2013 in advance of the change coming into force, and amendments will be made to VAT Notice 703 (Export of goods from the UK), to HMRC internal guidance and to relevant website content.

Question 2

Do you consider that this is sufficient to advise all those affected of the proposed changes? If not, what additional publicity should be provided, and who should this be aimed at?

4. Tax Impact Assessment

The table below sets out the Government's current assessment of what the impact of the legislative changes will be. This section gives all interested parties the opportunity to comment on what impact the changes will have and to point out anything that may have been overlooked. A Tax Information and Impact Note will be published alongside the final legislation, and this will take on board comments on the impacts provided in response to this consultation.

Summary of Impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18
	Nil	Nil	Nil	Nil	Nil
	The measure is not expected to have an exchequer impact.				
Economic impact	The measure is not expected to have any economic impacts.				
Impact on individuals and households	This is a minor change to the VAT rules on zero-rating of exports and, as such, there is no impact on individuals or households.				
Equalities impacts	The changes are not expected to impact any group sharing a protected characteristic.				
Impact on businesses and Civil Society Organisations	<p>This change will assist export trade by removing a requirement for UK businesses and their customers to account for VAT.</p> <p>Although we have no firm figures, we estimate that a small number of businesses will be affected. Of those, many are likely to be existing exporters who are familiar with export requirements and will therefore incur minimal additional costs. There will be additional costs to new exporters who supply goods to UK VAT registered businesses established outside the UK. Those costs relate to a requirement to comply with the rules in VAT notice 703.</p> <p>There will also be one off familiarisation costs associated with complying with new requirements and possible system and pricing changes. However, some of any administrative burden cost will be mitigated because affected businesses will no longer be required to account for VAT on these transactions.</p>				
Impact on HMRC or other public sector delivery organisations	The impact on HMRC costs of changing the law for some export transactions is negligible and would be met from existing baselines.				

Other impacts

The changes will impact as detailed above on all businesses, irrespective of size, and so will have no specific impact on small firms. No other impacts have been identified.

Question 3

Do you agree that the changes will have no impacts other than those set out above? If not, what additional impacts do you think will result from the changes?

Question 4

Following on from question 3, do you agree that the changes affect a small number of businesses and those businesses will incur minimal additional costs? If not, to what extent will businesses be affected and what additional administrative burdens will they incur?

5. Summary of Consultation Questions

From section 3 - How the change will be made

Question 1

Do you consider that the draft legislation will achieve the intended policy change?

Question 2

Do you consider that this is sufficient to advise all those affected of the proposed changes? If not, what additional publicity should be provided, and who should this be aimed at?

From section 4 - Tax Impact Assessment

Question 3

Do you agree that the changes will have no impacts other than those set out above? If not, what additional impacts do you think will result from the changes?

Question 4

Following on from question 3, do you agree that the changes affect a small number of businesses and those businesses will incur minimal additional costs? If not, to what extent will businesses be affected and what additional administrative burdens will they incur?

6. 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 legislation 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 3 of the process. The purpose of the consultation is to seek views on draft legislation in order to confirm, as far as possible, that it will achieve the intended policy effect with no unintended effects.

How to respond

A summary of the questions in this consultation is included at chapter 5.

Responses should be sent by 5 July 2013, by e-mail to john.bryning@hmrc.gsi.gov.uk or by post to:

John Bryning
HM Revenue & Customs
VAT Process Owner Team
1st Floor
Regian House
James Street
Liverpool L75 1AD

Telephone enquiries 03000 540786 (from a text phone prefix this number with 18001).

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 GOV.UK. 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.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website:
<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Amy Burgess, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Annex A: Draft Legislation

STATUTORY INSTRUMENTS

2013 No. 0000

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. ?) Regulations 2013

<i>Made</i> - - - -	<i>0th Month 2013</i>
<i>Laid before the House of Commons</i>	<i>0th Month 2013</i>
<i>Coming into force</i> - -	<i>1st October 2013</i>

The Commissioners for Her Majesty's Revenue and Customs(a) make the following Regulations in exercise of the power conferred by section 30(8) of the Value Added Tax Act 1994(b):

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Value Added Tax (Amendment) (No.?) Regulations 2013 and come into force on 1st October 2013.

(2) Regulations 3 and 4 have effect in relation to supplies made on or after 1st October 2013.

Amendment of the Value Added Tax Regulations 1995

2. The Value Added Tax Regulations 1995(c) are amended as follows.

3. In regulation 129(1)(a) (supplies to overseas persons), delete “, otherwise than to a taxable person,”.

4. In regulation 135(c) (supplies of goods subject to excise duty to persons who are not taxable in another member State), for “Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992” substitute “Excise Goods (Holding, Movement and Duty Point) Regulations 2010(d)”.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Commissioners for Her Majesty's Revenue and Customs

(a) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act 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.

(b) 1994 c. 23. Section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners under the Act.

(c) S.I. 1995/2518 which was relevantly amended by S.I. 2003/1485.

(d) S.I. 2010/593 which was amended by S.I. 2011/2225 and S.I. 2012/2786.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which have effect in relation to supplies made on or after 1st October 2013, amend the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the Principal Regulations”).

Regulation 3 amends regulation 129 of the Principal Regulations. Regulation 129 provides that, subject to certain conditions, the supply of goods intended for export to a place outside the member States shall be zero-rated. One of the conditions is that the supply is otherwise than to a taxable person. Regulation 3 removes this condition. This amendment is required to correct the implementation of Article 146(1)(b) of Council Directive 2006/112/EC on the common system of value added tax^(e).

Regulation 4 amends regulation 135 of the Principal Regulations. Regulation 135(c) refers to the removal of goods in accordance with the provisions of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992 (S.I. 1992/3135). Those Regulations were revoked and re-enacted with amendments by the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 (S.I. 2010/593).

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

(e) OJ No L 347, 11.12.2006, p 1-118