

EXPLANATORY MEMORANDUM TO
THE TRAVELLERS' ALLOWANCES (AMENDMENT) ORDER 2008
2008 No. 3058

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

2. **Description**

2.1 The tax and duty free allowances for travellers from outside the European Community are changed.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

3.1 None.

4. **Legislative Background**

4.1 Travellers entering the United Kingdom from outside the European Community's value added tax (VAT) or excise duty area do not - within limits - pay VAT or excise duty on goods they import with their personal luggage. The limit is expressed as a monetary value for most goods, but quantitative limits apply to alcohol, tobacco and perfume/toilet water.

(The Travellers' Allowances Order 1994 article 2(1) and the Schedule (S.I. 1994/955).)

4.2 (a) The instrument increases the monetary value to £340 (up from £145) for those travelling by air or sea, but only to £240 for other travellers.

(Before 1 January 2009, the respective values are £300 and £210 – see paragraph 4.5.

Private pleasure-flying and private pleasure-sea-navigation do not count as travel by air or sea for these purposes.

The value of an individual item must not be split up.

The ordinary luggage plus personal medicines do not count towards the total value.)

(b) A new alcohol allowance is added for 16 litres of beer.

(c) The alcohol allowance for still wine increases to 4 litres (up from 2 litres).

(d) The remaining alcohol and tobacco allowances are unchanged (including their inapplicability to those under the age of 17), but each can now be constituted respectively from different alcohol or tobacco products.

(e) The separate allowances for perfume and toilet water are removed.

(For points (a) to (e) see articles 2 and 3 of, and paragraphs 5 and 6 of the Schedule to, the instrument.)

(f) Travellers who transited outside the European Community, or whose journey started outside the VAT or excise duty area, are subject to the limits if they are unable to establish that their goods are tax and duty paid within the Community (without the possibility of refund).

(See article 2 of, and paragraphs 2 and 3 of the Schedule to, the instrument.)

- 4.3 The allowances follow from Council Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries (OJ No L 346, 29.12.07, p 6).

The brief scrutiny history of that Directive is:

(a) House of Commons European Scrutiny Committee: Proposal cleared in Twenty third Report of Session 2005-2006, ordered by the House of Commons to be printed 29th March 2006.

(b) House of Lords European Union Committee: Proposal cleared in letter to the Government of 26th April 2006, as recorded in Progress of Scrutiny Fourteenth Report for Session 2005-2006.

- 4.4 The instrument also updates the definition of “third country” (i.e. travel from where gives rise to the entitlements) to reflect that Directive. This is anywhere outside the European Community’s VAT or excise area, as appropriate. The stipulation that the goods in question must be obtained outside that area is removed.

(Article 2 of, and paragraphs 1 and 2 of the Schedule to, the instrument.)

It similarly updates the rules about when entitlement is lost on the grounds that the importation is for a commercial purpose. There is no loss for occasional importations consisting exclusively of goods intended as presents, or of goods for personal or family use of the traveller.

(Article 2 of, and paragraph 4 of the Schedule to, the instrument.)

- 4.5 The conversion to national currency from the euro equivalents must be done in accordance with Article 15 of the Directive. The exchange rate for Euro to sterling before 1st January 2009 is 0.69735 (OJ No C 230, 2.10.07, p 2), then 0.7903 (OJ No C 249, 1.10.08, p 5).

- 4.6 A transposition note for the Directive is attached as an Annex.

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, the Rt Hon Stephen Timms MP, has made the following statement regarding Human Rights:

In my view the provisions of the Travellers' Allowances (Amendment) Order 2008 are compatible with the Convention rights.

7. Policy background

- 7.1 In 2004, the Chancellor of the Exchequer wrote to the European Commission and other Member States proposing an increase to the monetary value for the VAT and excise duty free allowance for other goods including electrical items, souvenirs, etc brought by individuals from outside the European Union for their own use. The Chancellor recognised that the monetary value of the allowance did not adequately reflect the shopping habits of travellers today – the value has remained at €175 since 1994 (although the sterling equivalent was revalorised in 1996 from £136 to £145 due to a change in the exchange rate).
- 7.2 Agreement was subsequently reached to increase the value to €430 for air and sea travellers, but also to introduce a new lower allowance set at €300 for other travellers. This includes those travelling by private plane or boat for pleasure purposes, which are specifically excluded from the definition of air and sea traveller in the new Directive.
- 7.3 This instrument updates the Travellers Allowance Order 1994 (S.I. 1994/955) where the existing allowances are contained.
- 7.4 The corresponding allowance for customs duty is contained in Article 45 of Council Regulation 918/83/EEC (OJ No L 305, 25.04.83, p 1), as amended by Council Regulation (EC) No 274/2008 (OJ No L 85, 27.03.08, p 1).

8. Impact

- 8.1 An Impact Assessment has not been produced for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is negligible, implementation costs will be absorbed in the normal running of HM Revenue & Customs.

9. Contact

Caroline Gale at HM Revenue & Customs Tel: 0161 827 0375 or e-mail: caroline.gale@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX

Transposition Note: Council Directive 2007/74/EC

Transposition Note setting out how the Travellers' Allowances (Amendment) Order 2008 (S.I. 2008/3058) and other legislation implement the changes to the tax and duty free allowances.

The Directive

Council Directive 2007/74/EC of 20 December 2007 is concerned with the exemption from value added tax and excise duty of goods imported by persons travelling from third countries. This provides the supporting framework for the United Kingdom's traveller allowances and sets down limits on the amount of excise goods (alcohol, tobacco and fuel) and the monetary value of other goods (e.g. electrical items, perfume and souvenirs, etc) that can be imported for own use (includes gifts) without paying VAT and excise duty on those goods. The Directive takes effect on 1 December 2008.

Introduction

This Directive replaces Council Directive 69/169/EEC where the tax and duty free allowances and their supporting provisions are currently contained. These are transposed in the Travellers' Allowances Order 1994 (S.I. 1994/955) and elsewhere. The significant changes to existing provisions are made in Article 3 of the Directive to update the definition of a 'third country' and 'territory', and in Articles 7, 8 and 9 where the travellers' allowances are set out. The Directive removes the exemption for perfumes, effectively bringing these products under the monetary value for other goods. No change is made to the existing fuel allowance. The remaining Articles provide the supporting framework for the tax and duty free allowances, but make no material changes.

Articles	Objective	Implementation
Article 2	Sets out the framework for qualification for the allowances.	The Schedule to the Travellers' Allowances (Amendment) Order 2008 amends the wording in the existing Order to remove the wording 'obtained by him in a third country' to reflect the Directive.
Article 3	Provides the definition of a 'third country' and 'territory' (the place where individuals can travel from to be entitled to the tax and duty free allowances).	The Schedule to the Travellers' Allowances (Amendment) Order 2008 amends the provision in the existing Order to provide the definition of a 'third country' and 'territory'. This is anywhere outside the European Community's VAT or excise area, as appropriate.
Article 6	Sets out the criteria for non-commercial importations, for the purposes of determining whether the goods have been imported for own use.	The Schedule to the Travellers' Allowances (Amendment) Order 2008 extends the provision in the existing Order for a non-commercial purpose to include, by way of example, occasional importations exclusively made up of goods for the personal or family use of travellers or of goods intended as presents.
Article 7	Sets down the Euro value for the amount of other goods that individuals travelling from a third country can bring into the EU for own use without paying VAT and excise	The Schedule to the Travellers' Allowances (Amendment) Order 2008 updates the provision in the existing Order to provide that individuals can bring other goods (e.g. electrical items, perfume and

	<p>duty on those goods -</p> <ul style="list-style-type: none"> • air and sea travellers €430 • others, €300 (includes private pleasure-flying and private pleasure-sea-navigation). 	<p>souvenirs, etc) into the UK for own use without paying UK VAT and excise duty on those goods.</p> <p>Provision is also made to allow individuals arriving by other means (includes anyone arriving by private planes or boats for pleasure purposes only) to bring a lower monetary value of other goods (e.g. electrical items, perfume and souvenirs, etc) into the UK for own use without paying UK VAT and excise duty on those goods.</p> <p>Due to the requirement to recalculate the Euro equivalent in national currency of this allowance every year, and the difference in the Euro – sterling exchange rates in October 2007 and October 2008, the Schedule to the Travellers' Allowances (Amendment) Order 2008 also provides for different values to be applicable on 1 December 2008 and 1 January 2009. From 1 December 2008, the sterling value of the other goods allowance will be £300 and £210. From 1 January 2009 this will increase to £340 and £240.</p> <p>The allowances do not include the value of products listed in Articles 8, 9 and 11.</p>
<p>Article 8</p>	<p>Sets down the quantitative limit for the amount of cigarettes or other tobacco products that individuals travelling from a third country can bring into the EU for own use without paying VAT and excise duty on those goods -</p> <ul style="list-style-type: none"> • 200 cigarettes, OR • 100 cigarillos, OR • 50 cigars, OR • 250g smoking tobacco <p>This provides that individuals are entitled to make up their 100% allowance with any combination of tobacco products.</p>	<p>The Schedule to the Travellers' Allowances (Amendment) Order 2008 mirrors the number of tobacco products that individuals can bring into the UK for own use without paying UK VAT and excise duty on those goods.</p> <p>It also introduces provision that will mean individuals can make up their 100% allowance using any combination of these products. For example, individuals may bring back 100 cigarettes (50%), along with 25 cigars (50%) to make up their full 100% individual allowance.</p> <p>There is no change to the provision in the the existing Order which prevents under 17 year olds from the tobacco allowances.</p>
<p>Article 9</p>	<p>Sets down the quantitative limits for the amount of alcohol that individuals travelling from a third country can bring into the EU for own use without paying VAT and excise duty on those products -</p>	<p>The Schedule to the Travellers' Allowances (Amendment) Order 2008 amends the provision in the existing Order to set out the amount of alcohol that individuals can bring into the UK for own use without paying VAT and excise duty on those goods.</p>

	<ul style="list-style-type: none"> • 1 litre of alcohol with an alcoholic strength exceeding 22% by volume or undenatured ethyl alcohol of 80% by volume and over, OR • 2 litres of alcohol with an alcoholic strength not exceeding 22% by volume. <p>This provides that individuals are entitled to make up their 100% allowance with any combination of these products.</p> <p>It also sets down separate quantitative limits for other alcohol products -</p> <ul style="list-style-type: none"> • 4 litres of still wine • 16 litres of beer. 	<p>It provides that for alcoholic beverages, other than still wine and beer, individuals entering the UK can make up their 100% allowance using any combination of products.</p> <p>There is no change to the provision in the the existing Order which prevents under 17 year olds from any allowance for alcohol.</p>
<p>Article 11</p>	<p>Sets down the quantitative limit on fuel that individuals travelling from a third country can bring into the EU for own use without paying VAT and duty on those goods –</p> <ul style="list-style-type: none"> • the fuel in a standard tank, AND • 10 litres contained in a portable container. 	<p>This allowance is unchanged and provision is already made elsewhere (S.I. 1984/476 and S.I. 1989/1898) so that individuals can bring fuel in their standard tank and 10 litres contained in a portable container for own use without paying UK VAT and excise duty on those products.</p>